THE

LEGISLATIVE ASSEMBLY DEBATES

(OFFICIAL REPORT)

VOLUME I, 1932

(25th January to 17th February, 1932

THIRD SESSION

OF THE

FOURTH LEGISLATIVE ASSEMBLY,

1932



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THE

LEGISLATIVE ASSEMBLY DEBATES

(OFFICIAL REPORT OF THE THIRD SESSION OF THE FOURTH LEGISLATIVE ASSEMBLY.)

VOLUME I—1932.

LEGISLATIVE ASSEMBLY.

Monday, 25th January, 1932.

ADDRESS BY HIS EXCELLENCY THE VICEROY TO THE MEMBERS OF THE LEGISLATIVE ASSEMBLY.

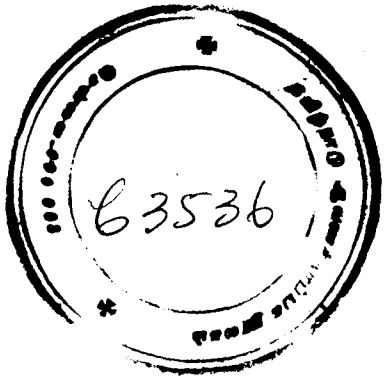
His Excellency the Viceroy: Gentlemen, before making any reference to the numerous matters on which I propose to address you this morning I wish to pay a tribute to the memory of the late Sir Muhammad Shafi, by whose death, when acting as a Member of my Executive Council, India has been deprived of one of her most valued and trusted servants. His great ability and his forceful character, combined with his kindness and sympathy of heart endeared him to all those who were privileged to know him. By his death I feel that I have lost a personal friend who was always to me a wise Counsellor and adviser and one who in very truth gave his life for the service of his country.

To Lady Shafi and her family we all, I am sure, extend our deep and heartfelt sympathy in their bereavement. May she find comfort and consolation in her great distress.

Let me now welcome the Members of the Legislative Assembly to the labours of another session. The usual practice is, I understand, for the Viceroy to address the Indian Legislature as a whole, but on this occasion, the state of business does not warrant the summoning of the Council of State before the end of February; and in view of the many important issues now facing the country I decided that I would not wait until then, but would address the Honourable Members of the Assembly on the opening day of their session.

I am glad to be able to inform you that of our relations with neighbouring countries on our borders I have nothing to say except happily that all is well. It has been a matter of particular gratification to me and to my Government that we have lately had the privilege of welcoming as our guest in Calcutta His Highness the Prime Minister of Nepal. Today however I would ask you as the Representatives of India for a moment to extend your vision to a wider horizon than is usually brought under observation on these occasions and to join with me in an expression of the earnest

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Legislative Assembly.

President:

THE HONOURABLE SIR IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E.

Deputy President:

MR. R. K. SHANMUKHAM CHETTY, M.L.A.

Panel of Chairmen:

SIR HARI SINGH GOUR, Kt., M.L.A.
MR. ARTHUR MOORE, M.B.E., M.L.A.
SIR ABDUR RAHIM, K.C.S.I., Kt., M.L.A.
SIR COWASJI JEHANGIR (JUNIOR), K.C.I.E., O.B.E., M.L.A.

Secretary:

MR. S. C. GUPTA, C.I.E., BAR.-AT-LAW.

Assistants of the Secretary:

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.
RAI BAHADUR D. DUTT.

Marshal:

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

Committee on Public Petitions:

MR. R. K. SHANMUKHAM CHETTY, M.L.A., *Chairman.*
MR. ARTHUR MOORE, M.B.E., M.L.A.
SIR ABDULLAH SUHRAWARDY, Kt., M.L.A.
DIWAN BAHADUR HARBILAS SARDA, M.L.A.
MR. B. SITARAMARAJU, M.L.A.

[H. E. the Viceroy.]

hope which we all feel and which every thinking man must feel for the success of the Disarmament Conference now about to assemble at Geneva. This Conference, the culmination of the first organised attempt yet made to find some means of settling international differences other than by the arbitrament of force, represents the outcome of five years' preliminary labours, in which both in deed and in word His Majesty's Government in the United Kingdom with the full support of the Government of India and those other members of the British Commonwealth of Nations who are also in their own right members of the League of Nations have played a very prominent part. It will, I trust, in years to come be a source of pride for the Government of India and all the other Governments concerned to reflect how in these years of depression, when all around seemed so dark, they were taking their part in the forging of machinery which however crude and imperfect is designed to free mankind from the greatest of all scourges by which humanity is afflicted, the scourge of war.

In addressing the Indian Legislature last September at Simla, I referred to the Conference which was being convened between the representatives of the Government of India and of the Government of the Union of South Africa to discuss matters arising out of the working of the Cape Town Agreement of 1927 and the position of Indians in regard to the tenure and ownership of immovable property in the Transvaal. It is a matter of great satisfaction to my Government that the Delegation which they have appointed has been accepted by Indian opinion as fully representative. Sir Fazl-i-Husain and Mr. G. S. Bajpai sailed from Bombay on the 16th December 1931, while the other delegates, Sir Geoffrey Corbett, the Right Honourable V. S. Srinivasa Sastri, Mrs. Naidu and Sir Darcy Lindsay reached South Africa direct from England. For the warm and cordial welcome extended to them by the Union Government my Government are deeply grateful. The Conference was opened at Cape Town on the 12th January by the Prime Minister of the Union in a spirit of friendliness and good-will which augurs well for the success of the deliberations on which it is still engaged. Issues of great moment are involved and it is, I am sure, the hope of every right-thinking citizen of India and South Africa that the joint efforts of the representatives of the two countries should succeed in finding a satisfactory and honourable solution of the questions at issue. I was distressed to learn of the illness which prevented Sir Fazl-i-Husain from attending the opening meetings of the Conference. I am glad to say that I have reassuring news of his health and I have no doubt that you will join with me in wishing him a speedy and complete recovery.

Coming to a matter which is of direct and immediate concern to the people of India—the agricultural situation—I would recall to Honourable Members what I said in my speech last September. I then said that what was wanted to bring about a general improvement in the situation was a rise in prices which would come with the revival in general economic conditions throughout the world. The prices of agricultural produce have begun to show an upward tendency, but they are still much below those to which the producer has become accustomed for several years past. An improvement in prices is indeed most welcome, but the restriction of the credit and resources of the agricultural community, which have suffered so serious a strain during the prolonged period of depression, can only

gradual. The situation, therefore, still needs to be watched carefully, and I am glad to be in a position to assure you that all Local Governments are fully alive to the necessity of dealing with it in a spirit of sympathy. I need only mention two outstanding examples. In the United Provinces, recent remissions of land revenue have amounted to Rs. 109 lakhs and relief has been given to the tenantry by a reduction in rent amounting in all to well over Rs. 4 crores. In the Punjab, after a careful examination of the conditions in each assessment circle, remissions of land revenue and water rates have been sanctioned on a liberal scale, the total cost of relief during the last kharif season being Rs. 46 lakhs. I take this opportunity of expressing my appreciation of the prompt measures which have been taken by the Local Governments in dealing with this matter which is of vital importance to the peace and contentment of the agricultural community which forms so large a proportion of the population of India.

And in this regard I would inform Honourable Members that the Imperial Council of Agricultural Research, inaugurated as recently as 1929 by Lord Irwin, has succeeded in enlisting provincial co-operation in its activities to a remarkable degree. Thanks to the action of the Government of India in endowing it from its commencement with a substantial lump sum grant as well as a considerable recurring annual grant the Council has been able, even during this period of financial stringency, to keep all its research activities in being. It has made generous grants to Provinces and the Indian Universities for the conduct of agricultural research. During the year which has just closed the Council sanctioned a sum of Rs. 9,19,129 spread over a period of five years for a co-ordinated scheme of rice research embracing all the important rice-growing Provinces in India (including Burma). It is noteworthy that towards this wide flung scheme of research the Empire Marketing Board, which has been of the greatest assistance to the Council since its inception, has given an additional grant of Rs. 2,03,279. In the same period the Council has sanctioned the establishment of a Sugarcane Research Station in the Bombay-Deccan at a cost of Rs. 5,22,000 spread over a period of five years out of which the share of the Council comes to about three lakhs of rupees. These two instances by no means exhaust the tale of the Council's grants which have already given a greatly-needed impetus to indigenous research in agriculture all over India.

Gentlemen, when I last addressed you I referred to the financial situation, to the difficulties which had come upon India as the result of an economic crisis in the world for which there had been no parallel in history, and to the need for courageous action on our part to maintain the financial stability and credit of India. Since that day in September many momentous events have happened. I do not intend to enter now upon an elaborate survey of the present financial position, for that will be most appropriately undertaken in connection with the Budget discussions which will, as usual, form an important part of the business of this session. But it is well that I should deal shortly with the main points in the present situation.

Let me say at the outset that when I take a broad survey of our position as it is today and compare it with the conditions in which we were placed early in September, I am filled with a feeling of deep thankfulness at the manner in which we have been enabled to overcome some of the difficulties which then confronted us, and at the great improvement which has taken place in our general position. Difficulties

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appreciation of the dangers which have been avoided. It is too early yet to make forecasts as to the distant future and our action will largely depend on world developments, but for the present we may fairly congratulate ourselves that we have taken the right path.

Let me put before you briefly some of the encouraging results which have been achieved.

In the first place the Ways and Means position of the Government has been considerably eased and the floating debt has been reduced from Rs. 84 crores to Rs. 61 crores. Then again we have been able to acquire very substantial sterling funds through the market, and to pay off the whole of the £15 million sterling loan which matured in London on January 15th without borrowing in London and without drawing on our reserves. This is a tremendous achievement.

On top of this it has been possible to ease the local situation by a reduction in the bank rate to a more normal figure.

Rupee exchange has been and continues to be strong, and it has been possible to work the very moderate measure to control exchange operations, which we imposed, without any embarrassment to the business community.

Combined with all these events there has been a marked improvement in India's credit, and in the price of her securities, especially in London. For example, the 3½ per cent. sterling securities which in September touched 43½ now stand at 55½, and there have been similar improvements all round.

In the general world of commerce there has been a considerable easing of the situation and a considerable improvement in the rupee prices of India's main commodities, especially cotton.

Now, gentlemen, I am very surprised to find that in the midst of all these encouraging signs, when in fact the vast masses of India whose livelihood depends on the economic position can feel a new hope and raise their heads from depression to the first signs of light on the horizon, it has been thought fit by a certain group and particularly a certain section of the Press to propagate accounts of the financial condition of India designed to cause alarm and despondency. It is said that the financial position is precarious, that we are drifting towards ruin, and those who say these things are, for reasons of their own, clearly aiming at producing such results. In particular these gentlemen urge that the export of gold is ruinous to India, and that the Government's currency policy which has recently involved considerable expansion is creating a dangerous inflation which threatens our future stability. Let me deal briefly with these two points.

As regards the exports of gold, what are really the facts? Those who sell gold do so because they can make a profit on their holdings. They have made an investment which has turned out well. Why should they be deprived of the opportunity to take advantage of it? There is no public ground on which this could be justified, for the export of gold at this stage is definitely and decisively to India's advantage. Most countries which, like India, rely on primary agricultural products for maintaining their balance of international trade and payments, are just now labouring under acute difficulties, which force them to adopt extremely stringent

measures for the control of exchange which greatly hamper the commerce of the country. At such a time India is able to tap a portion of her own vast resources, and by parting with a very small fraction of her immeasurable stores of gold to realise a favourable balance of international payments. The good results of this are already apparent—a strengthening of our exchange—an easing of our bank rate—and the accumulation of sterling resources which have already, as I have just pointed out, enabled us to pay off £15 millions sterling without borrowing, and thus relieve the country of a capital charge of Rs. 20 crores and a recurrent charge of 110 lakhs per annum. These are only a few of the public advantages, and they are, as I have said, combined with private profit. Why should the country not be left free to reap this advantage? A time has indeed come when India's huge investments in gold—which have for many years been barren and unproductive—are proving profitable to the private holders and to the State alike. Those who would press a contrary view profess to argue that India is weakening her position by this process. But if the holding of gold in a country is to be regarded as an investment and a source of strength, of what value is it, if it is never to be drawn upon? What is the use of a reserve against bad times, if when the bad times come it is not to be used? Moreover the amounts exported are negligible in relation to India's total holding of gold. What that total holding may be no one knows; but I may remind you, gentlemen, that India's net imports of gold during the last 30 years alone amount to no less than 550 crores worth as valued at the time of import, or well over 700 crores if revalued at present prices. Against this, exports since September have amounted in value to no more than 40 crores at present prices. It will be seen that this volume is of no appreciable importance compared with what has been imported in recent years alone, and without taking account of the vast stores which must have been accumulated before 1900.

I would further remind you that the export of gold is no new feature in India's commercial life. Large quantities have always moved in and out, and on special occasions India has tended to realise gold as a means of adjusting the balance of payments, or in order to take advantage of profitable opportunities of selling gold against rupees. In three recent years, 1915, 1918 and 1921, the exports of gold exceeded the imports. In fact it is clear on an impartial view that there is not only no cause for anxiety in what is now happening, but that it is conferring a great benefit on both public and private interests, and proving that there are at least some occasions in an economic cycle when India's ancient tradition of investment in gold can prove to be of direct economic advantage to the country.

Then I would turn to the other circumstance which has been referred to in certain quarters as justifying pessimism about our position—the recent expansion of our currency. It is a little curious that the same gentlemen who a few months ago were abusing the Government for the so-called ruinous policy of contraction, should now turn round upon us with almost equal violence when it becomes necessary once again to expand the currency, and possibly thereby greatly to improve the position of the Government as currency authority without endangering the general position.

What are the facts in this case? Since September currency has been expanded by about 43 crores, but in the earlier months of the financial

[H. E. the Viceroy.]

we still have, and I do not desire to minimise them, but we have surmounted many with a measure of success beyond anything for which we could have then dared to hope, and we can face the difficulties which remain with a new confidence.

The present situation may be considered in two parts. First, the budgetary prospects, and, secondly, the general financial position which is concerned with matters such as the credit of India, the floating debt, and the currency position.

As regards the budgetary position, in accordance with the indication which I gave when addressing you in September, the Government came forward with proposals for restoring equilibrium which were eventually dealt with in the special session in November. These proposals covered both Retrenchment and new taxation. As regards the former I should like again to express my feelings of appreciation to the members of the various Retrenchment Committees for the assistance which they have given to my Government. Their proposals are now being embodied in the budgetary demands for next year, and I have every reason to believe that a very full measure of support will be given to them. At the present time of constitutional transition, when we are working towards a new state of affairs in which a much fuller degree of responsibility will rest upon the representatives of the Legislature for the government of the country, I think it appropriate to comment on the way in which even before these changes, I and my present Government have endeavoured to give those representatives a voice in this important matter. It is fair to say that there can hardly be any case in the world where the executive Government has put itself more fully in the hands of the Legislature in considering practical measures such as are involved in Retrenchment or has given fuller effect to the recommendations of the popular representatives.

As regards the new taxation proposals, it must be admitted that the revenue returns for the first two months October and November were disappointing. But the customs returns for December showed an improvement—producing as they did 89 lakhs more than the revenue for the corresponding month last year. It is too early yet for us to have formed any final opinion as to the course of affairs in the next financial year. It will be necessary as a matter of prudence, and in view of the results to date, to make some modification in the estimates from the provisional figures which were given in September. But these modifications are not of sufficient magnitude to affect our general plan, and we should not feel justified in asking you at this stage to approve any substantial change in that plan, or to vote any further taxation. We consider in fact that we are still justified in anticipating a surplus for the next financial year. In these circumstances you will not be asked to consider a new Finance Bill in this session.

It must of course be recognised that we are still in the midst of a world economic crisis for which, as I have already said, there is no parallel in history. Our fate is dependent largely upon what happens in the rest of the world, and particularly on whether the great European nations and America can arrive at some basis for dealing with the problem of Reparations and War Debts which will restore confidence in their economic future. If from any failure to accomplish this, or for other reasons, there should be a serious deterioration in the world position,

it may be that this will react on us and that we shall have to take measures to protect ourselves. But that is a contingency which we hope will not arise and with which, at any rate, we are not yet faced. Apart from this a possible factor of disturbance in our estimates might be created if internal political trouble were allowed seriously to interfere with the country's normal economic life. That indeed would be a tragic development and my Government, together with the Provincial Governments, are determined to prevent its accomplishment and to give their protection to all who are engaged in business throughout the country. While I and my Government view with the greatest regret the signs which are before us that certain interests in this country are willing to risk bringing great economic distress upon India in their attempts to embarrass the established Government, we cannot admit into our calculations the possibility that they will succeed in achieving this end.

Having dealt with these two factors I can say with confidence that our economic situation in India is sound and healthy and compares most favourably with that of any other country in the world. Indian products are still finding a free market abroad and we are not, like other countries, burdened with huge stocks of unsaleable goods. Indian industry is still at work and in India's chief field of manufacture—the cotton mills—we have an example of a great staple industry, still expanding, still fully employed, and working at a fair margin of profit, at a time when all the great industries of the world are stagnating, restricting output, working half or quarter time, and mostly incurring losses. If I look elsewhere I find other reasons for encouragement as regards the future. I see, for example, signs of the development of something new for India in the sugar industry in which I am informed that a large number of new factories are now under order or in course of erection. If any of you, gentlemen, had leisure to tour the world today, I venture to assert that in no other country would you find such hopeful conditions or such grounds for encouragement. To some extent we may claim that these results have been influenced by the measures included in the last two Finance Bills.

These are grounds for hope and optimism which exist in India at a time when the rest of the world is suffering under the deepest distress and depression. Are these hopes and possibilities to be wrecked by internal political troubles brought upon us gratuitously by a certain section of the public? That is a question which I would ask all of you to put to yourselves and which I must deal with more fully in other portions of my speech.

When I turn from the budgetary position to what I have described as the general financial position, I find even greater signs for encouragement. The outstanding event in this field since I last addressed you has of course been the unlinking of sterling from gold. That action by the British Government confronted us in India with a difficult question, the answer to which was fully debated in the last Simla session. Looking back on the months which have passed, I think we may claim indisputably that the decision which we then took to keep the rupee linked with sterling has worked to the benefit of India. A catastrophic change was accomplished without dislocating the machinery of business. All transactions have continued smoothly and many of our special problems have been enormously eased. The very success of this policy, the very ease with which the change has passed may perhaps tend to prevent a proper

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year the contraction had been 27 crores, so that during the current financial year there has been a net expansion of just over 16 crores. This may be balanced against a net contraction during the previous year (1930-31) of nearly 39 crores. The expansion since September has been the necessary sequel of the greater demand of the public for currency—partly to meet trade requirements which are greater owing to the rise in rupee prices, to which I have already referred, partly to cope with more active trade, and partly because some of those who have sold gold are now holding currency in its place. The whole process has been perfectly normal and healthy, and of course as you all realise it brings great advantage to the Government by enabling it to reduce its debt to the public—treasury bills in India and the sterling loan in England—and to increase its earnings as currency authority.

Gentlemen, I am satisfied that the position is not only sound and healthy but that we are now justified in cherishing and spreading abroad a new spirit of hope for India of economic recovery.

Let me now turn to the present political situation. We are meeting today at a time which is perhaps in many ways the most anxious and critical that this country has ever passed through, a time which is full of possibilities for the future peaceful advance and prosperity of India, a time when I am confident I can rely on the fair and sober judgment of every Honourable Member in any discussions which may be raised on the present political situation during the coming session and in order to give Honourable Members a perfectly clear idea of the position as we see it, I propose in the first place, to state as shortly and frankly as I can, the reasons which have led me and my Government to take the drastic action which we have felt bound to undertake against unlawful activities of the Congress Party within the last few weeks, and further to tell Honourable Members what is the definite policy of the Government of India for the future. Honourable Members are aware that I took over the duties of Viceroy of India in April last shortly after my predecessor Lord Irwin had completed the discussions with Mr. Gandhi which resulted in what is known as the Delhi Settlement, and under the terms of which Mr. Gandhi agreed to call off his civil disobedience campaign.

It became my duty and that of my Government to make every effort to implement the terms of the Settlement, and I can truly say that, during these past months, all officers of Government have endeavoured, in spite of great difficulties, to carry out in spirit and in letter the obligations involved in the Settlement. On the other hand, it was soon clear to myself and to my Colleagues that the attitude assumed by Congress throughout the country was to regard the Settlement not as a settlement at all, but as a means for consolidating their position and for making preparations for a further attack on constitutional authority. Nonetheless, I and my Government deliberately forebore from taking the action which in other circumstances these preparations would clearly have demanded. So long as there was any hope of achieving the conditions, which the Delhi Settlement was intended to secure, we continued to incur risks which could be justified by no other consideration. We spared no effort in our attempts to persuade the responsible leaders of Congress to abandon activities which we were convinced could lead only to disaster. In the United Provinces the Local Government were actually engaged in discussion with representatives of Congress when the latter declared a no-rent campaign—the consequences of which, had their action remained unchallenged, would have

been the creation of a state of class warfare throughout the Province. In the North West Frontier Province persistent attempts were made to obtain the co-operation of the Congress Party, represented by Khan Abdul Ghaffar Khan and his followers, in giving practical effect to the desire of the people as a whole to enjoy the same status as other Provinces. Our efforts were ignored or rejected. Week after week I received reports of grave deterioration in the position, and of the growth of a movement, frankly revolutionary, conducted in the name and with the full support of Congress, which, if it were allowed to continue to its avowed purpose, must have imperilled the peace of the Frontier and of India. And still we held our hand. To the last we strove to maintain the peace. The Chief Commissioner, with the greatest loyalty to the policy of Government, refrained from asking for powers and measures until he had reluctantly to report that the margin of safety had been passed, and that he could delay no longer consistently with the discharge of his duties. There has been no lack of goodwill on my part or on that of my Government. I have appealed for co-operation personally from the leader of the Congress Party and many of his followers. I begged them to join in a common effort to secure, as rapidly as possible, responsibility for Indians to administer their affairs. I am conscious of no deviation by myself or by my Government from the path of conciliation until Congress had themselves wantonly torn up the path. Their action in the United Provinces and on the Frontier, continued despite repeated advice and warnings, compelled my Government to take measures which ran counter to our wishes and were contrary to the policy we had consistently endeavoured to pursue. Once those measures were taken, it is clear that they could not be suspended or withdrawn unless the activities that had made them necessary were definitely abandoned. The reply of Congress was a declaration of their purpose to extend their activities throughout the length and breadth of India, and by a revival of civil disobedience to cripple the administration. No Government worth the name could hesitate to accept the challenge. Failure to do so would indeed make all Government in this country impossible. There must be no room for misunderstanding either on the part of the public or of those who choose to disobey the law. There can be no compromise in this matter. I and my Government are determined to use to the full the resources of the State in fighting and defeating a movement, which would otherwise remain a perpetual menace to orderly government and individual liberty. While Government will take all the requisite steps to guard against any abuse of the special powers it has been necessary to take, there can be no relaxation of the measures now in force against civil disobedience, so long as the circumstances exist which make them necessary. If we are to elect between the barren, destructive path which, if persisted in, can only lead to ruin and the breaking up of laws and the better way of advancing by means of free and friendly discussion to constructive ends, surely no reasonable man, no man who has the true interests of his country at heart can hesitate in his choice, and I look with confidence to you, gentlemen, sitting in this Assembly which is a witness in itself of what has already been done and a promise of what may yet be achieved by the constitutional method, to support me and my Government in our vindication and maintenance of the conditions on which alone political progress can be securely and successfully pursued.

I turn now to the other side of the policy of Government and desire to take you into my confidence regarding the steps which are being taken to implement the programme of constitutional reform outlined in the Prime Minister's recent declaration.

[H. E. the Viceroy.]

Conference and have submitted (or are in process of submitting) their conclusions to the Secretary of State for his approval. We trust to be able to initiate the Conference at an early date.

Notwithstanding the many difficulties which we have had to surmount during the past few months, and the serious problems that still lie before us, with the recollection of all I owe to this country in my public service of years gone by, I feel it a great pride and privilege towards the end of my public life to be leading India on to her promised position as an absolutely equal partner with the other Dominions under the Crown. Our difficulties must and shall be surmounted and my Government are determined to allow no subversive or revolutionary activities to prevent us from achieving this great purpose for which many of us have worked for long years. I have asked for co-operation from all in the past. Today I ask for the cordial co-operation of all those who have the true interests of their great country at heart to help us to solve the many problems that lie before us, to exercise the spirit of equity and fairness, and to bring about that confidence, good-will and trust between our two races who have worked together for so many years to secure the well-being and prosperity of India in the past and will long continue to do so in the future.

I leave you to your labours and trust that a Great Providence may guide you in the important duties you have to undertake. (Applause.)

The Assembly met in the Assembly Chamber of the Council House in New Delhi at Twelve of the Clock being the first day of the Third Session of the Fourth Legislative Assembly, pursuant to S. 63D(2) of the Government of India Act. The President (the Honourable Sir Ibrahim Rahimtoola) was in the Chair.

MEMBERS SWORN:

Captain Sher Muhammad Khan Gakhar, M.B.E., M.L.A. (Nominated Non-Official);

Nawab Sir Sahibzada Abdul Qaiyum, K.C.I.E., M.L.A. (Nominated Non-Official);

Mr. Thomas Ryan, C.I.E., M.L.A. (Director General of Posts and Telegraphs);

Mr. Andrew Gourlay Clow, C.I.E., M.L.A. (Government of India: Nominated Official);

Mr. Clement Wansbrough Gwynne, C.I.E., O.B.E., M.L.A. (Government of India: Nominated Official);

Mr. John Santos, M.L.A. (Government of India: Nominated Official);

Mr. Percy Macqueen, M.L.A. (Madras: Nominated Official);

Mr. Frederick William Allison, M.L.A. (Bombay: Nominated Official);

Mr. Arthur Sydney Vernon Acott, M.L.A. (Bombay: Nominated Official); and

Mr. Charles Kenningale Seaman, M.L.A. (Central Provinces: Nominated Official).

DEATH OF THE HONOURABLE MIAN SIR MUHAMMAD SHAFI.

The Honourable Sir George Rainy (Leader of the House): Before the business of the session commences, Mr. President, it is I am sure the wish of every Member that something should be said of the loss which India has sustained since our last meeting. The late Sir Muhammad Shafi filled a large place in the public life of the country, for he had many gifts. Eminent as a lawyer, distinguished as an administrator, and in the first rank as a statesman and politician, whether in office or not, he exerted a great and growing influence in his own province, amongst his own community, and throughout India as a whole.

For nearly ten years from 1915 to 1925 his connection with the Central Legislature was unbroken, first as a Member of the old Imperial Legislative Council and then of the Council of State, and though he was never a Member of this House, he spoke frequently in the first two Assemblies in his capacity as the Law Member of the Government of India. His appointment to the Executive Council preceded by about 18 months the inauguration of the reforms, and it fell to him during these critical years before and after the establishment of the new constitution, to contribute largely to the shaping of India's destinies. I was not his colleague in the Government of India, but I know many of those who were, and he earned the respect, admiration and affection of every one of them.

[H. E. the Viceroy.]

In the course of his description of the policy of His Majesty's Government the Prime Minister announced the determination of the Cabinet to proceed with the detailed examination of constitutional problems still unsolved and to pursue without interruption the method of co-operative consideration. To this end the Prime Minister announced the intention of His Majesty's Government to set up a number of Committees charged with the duty of enquiring into specific problems, and also a more general Committee, in effect a working Committee of the Round Table Conference, which would remain in being in India and with which His Majesty's Government would keep effective and continuous touch. The Prime Minister's intention was that this general Committee should be the means by which contact will be maintained by His Majesty's Government with the large representative political body typified by the Round Table Conference.

The Prime Minister also made reference in his announcement to certain particular tasks other than those assigned to these Committees. I desire to describe briefly the action which we are taking to carry out the plans of His Majesty's Government in these three directions.

The specific Committees are the Franchise Committee, of which the Marquess of Lothian is Chairman, the Federal Finance Committee which will be presided over by the Right Honourable Lord Eustace Percy and the Indian States Enquiry Committee presided over by the Right Honourable J. C. C. Davidson. *The personnel* of these Committees and their terms of reference which are contained in letters addressed by the Prime Minister to their respective Chairmen have been published. The British members of these specific Committees are at present on their way to India and are expected to land at Bombay at the close of this week. The Secretariats have already been assembled and are at work, so that the Committees ought to be able to make an effective start with their enquiries immediately on their arrival. Provincial Governments are collecting materials for their discussions with the Franchise Committee which will visit almost all Provincial headquarters. Provincial Franchise Committees have been constituted to work in close association with the main Committee.

I am deeply interested in the work of all these Committees, but I have a particular concern with the general Committee known as the Consultative Committee over which I shall myself preside as the deputy of the Prime Minister.

My attention has been directed to statements made in the public press which indicate the existence of an impression that the Consultative Committee will be a merely ornamental body or at most will set to work only when it receives the reports of the specific Committees. If that impression is at all general or has gained ground in the Indian Legislature, I desire to explain the true position. As I have said the Consultative Committee will be the machinery by which on the outstanding constitutional problems His Majesty's Government will remain in contact with the discussions which will continue in India. The detailed consideration of issues vital to the new constitution of India will not be discontinued in England merely because the second session of the Round Table Conference has come to an end. It is an integral portion of the plans of His Majesty's Government that a similar detailed examination should proceed contemporaneously and on parallel lines in India, and that our explorations here should be co-ordinated with work being done in London through the contact

which I shall maintain with the Prime Minister whose deputy in this matter I shall be. Accordingly it will be the function of the Consultative Committee to co-operate with His Majesty's Government in filling in the gaps in the constitution so far sketched by the Round Table Conference, whether these gaps are due to differences of opinion in the Conference or to limitations imposed by lack of time upon its investigations.

The scope of work open to the Committee is so wide and so important that no time should be lost in setting to work. I have therefore decided to assemble the Committee during the present week, and I trust that at our preliminary deliberations we may be able to inaugurate an active and strenuous programme according to which in consultation with His Majesty's Government the details of the constitution may be fully and rapidly explored. It is my intention so far as my other duties may permit to engage personally in the work of the Committee.

In that new constitution the North West Frontier Province will find a place as a Governor's Province of the same status as other Governors' Provinces with due regard to the necessary requirements of the frontier. But in the meantime my Government and the Chief Commissioner have been earnestly engaged in preparing a constitution which will forthwith place the Frontier Province on the basis of a Governor's Province under the present Act. We have been assisted by the advice which I am glad to be able to describe as enthusiastic and harmonious of a local non-official Committee. It is no light task to frame a constitution for an area in which so far representative institutions have not proceeded beyond the field of local self-government while even in that field the practice of popular election is only in its infancy. My Government have however been able to submit to the Secretary of State detailed proposals on matters so fundamental as the franchise, constituencies and the constitution of the Legislature. I have good hopes that if these proposals commend themselves to the Secretary of State in Council, we may at no distant date have a local Legislature in session at Peshawar.

But something more is necessary. The new Government and the Legislature itself must be invested with powers and suitable financial provision must be made. For these purposes the necessary Devolution Rules have been drafted and are now under technical examination. I anticipate that this portion of our task will not lag behind our proposals for the representative system, so that when the local Legislature is constituted and ready to assume its duties we shall have placed it and the local Executive in possession of appropriate authority analogous to their counterparts elsewhere.

There is here a particular matter to which I desire to refer. The North West Frontier Province Subjects Committee has, as you are aware, advised us that the Province invested with its own authority will be unable to subsist on its indigenous resources. The course suggested is the grant of a central subvention. The need for such a subvention and its probable amount are under enquiry by my Government. It is our intention to consult the Indian Legislature when the details have been worked out.

The only other matter raised in the announcement made by the Prime Minister to which I desire to refer is the separation of Sind. The task which has been laid upon us is to confer with the representatives of Sind for the purpose of trying to overcome the financial difficulties in the way of separation. My Government, after consultation with the Government of Bombay, have had under examination the nature and scope of such a

[Sir George Rainy.]

His vacation of office in 1925 in no way lowered the position he held in the public esteem, and he continued to be what he had become, one of India's most prominent leaders, and one to whom men turned for sagacious counsel and advice when the political outlook was dark and threatening. Whether in office or not, he remained a great public servant. During the last two years of his life, as a representative of India at the Conference in London, he stood out as a leader of opinion and a leader of men. His services were devoted wholeheartedly to the cause of his country. He went to the Conference with no private ends to serve, and while he set before him as one of his objectives to secure justice for his own community, he did not narrowly conceive these interests as something separate and apart from the interests of India, but as an integral part of them. He laboured wholeheartedly to bring about agreement on the great issue on which opinion was divided, and though complete success has not yet been achieved, we need not fear that his labours were in vain. When the day comes, as come it will, when the great communities of India find and recognise their place in the public life of the country, ready to work together for common ends, it will be the labours of men like Sir Muhammad Shafi which will have brought this about.

He remained a public servant to the end for he died in harness. While he was on his way back from the Conference he received an invitation to rejoin the Governor General's Council in a temporary vacancy and he at once agreed to serve. We had expected to see him amongst us to-day, but his place is empty and we mourn his loss. To those of us who had looked forward to sitting with him as colleagues in the Executive Council, his sudden and unexpected death came as a great shock and brought with it a keen sense of bereavement. And all of us must feel—for I suppose he was personally known to nearly every Member of this House—that not only is the public life of India impoverished by his loss, but also that we have lost a personal friend whose kindness and sincerity will long linger in our minds.

It will I believe be the desire of every Member of this House, Mr. President, if on our behalf you would convey to Lady Shafi and other relatives of the deceased something of the loss and regret which we feel. I believe also, Mr. President, you would be rightly interpreting the wishes of the House if after we have attempted to give expression to our feelings you were to adjourn the House.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, it is with a heavy heart that I rise to-day to pay my tribute to the memory of my very old friend, Mian Sir Muhammad Shafi. Sir, he and I were fellow students together. He and I were called to the Bar in the same year and we joined our profession simultaneously. Sir, ever since the day we joined the Bar, down to the very day of his death, Sir Muhammad Shafi and myself looked upon each other as brothers. You can then realise my feelings when I read in the press that my old friend and brother had passed away. Mian Sir Muhammad Shafi practised in the Punjab, and was a Member of the Executive Council of His Excellency the Viceroy. He was a politician, he was a leader of his community, but above all he was a gentleman of rare polish, unfailing courtesy and integrity and ineffable charm of manners which made friends wherever he went; he knew no enemies. Such was Shafi who has passed away, and it would be the wish

of us all that the least we can do to commemorate his memory is to ask you Sir, to convey to Lady Shafi and the members of his family the poignant grief which we suffer on account of his untimely death. Those who have known him in private and those who have heard him in public will equally testify to his heart's desire to see the future constitution of this country placed upon a sure and abiding basis. As a leader of his community, he was naturally anxious to promote the interest of that community, but Sir Muhammad Shafi was in no sense a communalist. He was a nationalist first and a communalist, if at all, next. His primary and sole desire was to see freedom and liberty launched in his motherland. We grieve that he was called away before the fulfilment of his heart's desire to see self-government established in this country. Sir, the will of God be done. We on these benches join with the Leader of the House in requesting you to convey to the bereaved members of his family our keen appreciation of the loss from which we and the whole country suffer, and as a mark of respect to the memory of the illustrious dead, I join with the Leader of the House in requesting you to adjourn the House for the day.

Diwan Bahadur A. Ramaswami Mudaliar (Madras City: Non-Muhammadan Urban): Mr. President, in the absence of the leader of my party, Sir Abdur Rahim, it behoves me to associate myself and my party with the motion that has been made by the Leader of the House. The late Sir Muhammad Shafi was well known to many of us, and particularly during the last two years to those of us who had opportunities of serving on the Round Table Conference. His characteristics as a gentleman, as a patriot and as a leader of public opinion have been described by the Leader of the House and I do not think I need add to it. He was one of those who found it consistent with his patriotism to combine the advocacy of the just and legitimate rights of his community with the advocacy of all that was best for his country. There was no narrow view point of his. There was no purpose merely to aggrandize for any particular section what was meant for his country. Sir Muhammad Shafi was the dominating figure at the Round Table Conference, and in every one of his speeches and in the guidance that he gave to the deliberations of the Federal Structure Committee he made his personality felt. At present critical juncture, when the Government requires candid friends, not merely those who are out to criticise every single action of the Government, not even those who are ready to acclaim every single act of the Government either, at a time like this the loss of Sir Muhammad Shafi must be felt as keenly by the Government as by the public at large. It was the hope of some of us who had partaken in the deliberations of the Round Table Conference and who had been depressed by the lack of unanimity over one of the main issues at that Conference that the return of Sir Muhammad Shafi to his province would enable that great issue to be settled, so that the work of the Conference might proceed apace and with greater rapidity than ever. We had hoped that as a public leader his influence would be felt not merely by the members of his community but also by members of all other communities, and that his great persuasive charm, his sweet reasonableness and that ineffable something which disarmed all opposition where he was concerned would add considerably to the achievement of that solution to which all of us looked forward. It is a tragedy to Indian politics that at this critical juncture a man of that capacity, of that supreme charm which disarmed all opposition should have been lost to us. I remember, well, Sir, the last occasion on which he made his public speech at the Federal Structure

[Diwan Bahadur A. Ramaswami Mudaliar.]

Committee. It was on Thursday, the 24th September, and the circumstances under which he made that speech and the matter of that speech alike showed to the public what sort of man Sir Muhammad Shafi was. He was to take the Postal Express from Victoria Station at 1-30 that day and the critical debate was going on in the Federal Structure Committee whether mere provincial autonomy could be had as a basis for further constitutional progress, with all assurances contained in preambles and such like places that the full growth of a federation would be forthcoming. Sir Muhammad Shafi, without thinking of his personal inconvenience, came to that Committee and stated in clear and unmistakable terms that no constitution would be acceptable either to him or to his community or to the rest of India which did not visualise simultaneity of responsibility both at the centre and in the provinces. That was the last great public speech, that was the last great contribution that he made to the settlement of a grave constitutional issue. The loss of such a gentleman at this critical juncture is something incalculable.

Some of us, Mr. President, have had the privilege of having some insight into that charming domestic circle with which the late Sir Muhammad Shafi has been associated. The devotion of his devoted wife and the manner in which she was able to look after her consort was an example to young and old alike who had been greatly impressed. To that lady who must feel most acutely the loss that has overtaken her, to the brilliant daughter, who was the pride of her father and who in turn was one of the most affectionate of daughters, and to other sons and members of the family we should like to convey our most respectful sympathy and our feelings of sorrow at the loss that we feel as much as they do in the premature death of Sir Muhammad Shafi. Sir, I wish to associate my party with the motion that has been made by Sir George Rainy.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): I have known Sir Muhammad Shafi for a very long time but in 1921 I came into very close contact with him. During the first Assembly, for three years, I knew him intimately and I knew very well all the activities in which he supported the cause of India with great zeal and fervour. One of the great services which he rendered at that time was in clearing up the great misunderstanding which was at that time prevailing between the British Government and Indians on account of the Khilafat movement. I know how zealously Sir Muhammad Shafi fought in those days and how he tried to bring the two communities together by clearing away the misunderstandings which had been multiplying every day. That was the great service which was rendered by Sir Muhammad Shafi in those days, and since then I found that he never spared any pains in serving the country and its best interests. The loss of Sir Muhammad Shafi, Sir, at this juncture is not merely the loss to his family or to his community, but I call it a loss to the entire nation, and we all mourn it with the other members of his family just as if it was our own family loss. I support the motion which has been moved by the Honourable the Leader of the House and which has been so well supported by the leaders of the other parties.

Mr. Arthur Moore (Bengal: European): With your permission, Sir, I would like to be associated with this tribute. We here endorse to the full all that has been already said about Sir Muhammad Shafi's public achievement, his private charm and the country's loss. Moreover, Sir, as in every

quarter of the House so in this Group, there are and have been Members, past and present, amongst whom I count myself, to whom Sir Muhammad Shafi was a warm-hearted, personal friend.

Sir Abdullah Suhrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): Sir, in rising to support the motion of condolence moved by the Honourable the Leader of the House, I desire to pay my personal tribute of reverence, respect and homage to the memory of one whose sudden and untimely death, at this critical hour in her history when India can ill afford to lose such an illustrious son, India and Islam deeply mourn. Sir, we mourn the loss of one who, to mention only the last of his public activities, was, in the words of a previous speaker "a dominant figure" at the Round Table Conference. Sir, a strange fatality seems to pursue the Round Table Conference which claims its annual toll of victims from amongst its delegates. In the year 1930, Sir Muhammad Shafi had a miraculous escape from a motor car accident and we were greatly relieved when we learnt of his safety and were lulled into a sense of false security. But the dawn of 1930 saw the death of one of the stalwarts at the Round Table Conference, when Maulana Muhammad Ali was sacrificed at its altar, The birth of 1932 witnesses the death of yet another stalwart in the person of Sir Muhammad Shafi. Sir, I understand that it was on receipt of news of his mother's illness that he hurried back to India. He was a good son, a dutiful and devoted son who well remembered and illustrated in his person the beautiful saying of the Prophet, *al-Jannatu tahta aqdāmi ummiuhāt,* "Heaven lies at the feet of mothers". On arrival in India, declining the attractions of Calcutta during Christmas he rushed to Lahore to receive the blessings of his dying mother. Destiny disguised as Devotion to his mother drove him to his birth-place where Death claimed him and at his mother's feet the portals of Heaven opened to receive him. Inscrutable are the ways of Providence and our limited vision and human ken cannot penetrate the depths of divine wisdom and the dispensation of Heaven. One by one the stalwarts of Islam are passing away when its need is the sorest. Under the shadow of the calamity of Sir Muhammad Shafi's death Muslim India is prostrate with grief. But it must bow in silent submission and humble resignation to the divine decree and the will of Heaven. With the death of Mian Sir Muhammad Shafi vanishes one of the greatest personalities of Islam and one of the greatest sons of India. With his death this country has lost, as the Honourable the Leader of the House has just told us, one of the foremost leaders of men and opinion, of thought and action. Sir, barring possibly His Highness the Aga Khan, his was the most outstanding figure amongst the Muslim's leaders of modern India. Undoubtedly he was one of the greatest Indian statesmen who came to the forefront and occupied the highest place in the public life of India by dint of character and merit and his manifold activities. A brilliant advocate and a sound lawyer, a veteran statesman and a practical politician, an enthusiastic educationist and an ardent social reformer, a loyal friend and a chivalrous foe, he rose head and shoulders above his contemporaries and countrymen. A man endowed, as His Excellency the Viceroy remarked in his address this morning, with a rare kindliness of heart and sympathy, a man of amiable disposition and gentle manners, he disarmed all opposition and discourtesy by his unfailing courtesy and ever radiant smile. He was most generous to his political opponents whom he constantly endeavoured to win over to his views by the influence of his charming personality and persuasive eloquence. He was a man of broad sympathies and wide charity, a generous host and

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Sir, this is not an occasion for making long speeches. In fact, it is an occasion on which words are a very feeble means of giving expression to the feelings of one's heart. In a few words I wish also to pay my humble tribute to the memory of the late Mian Sir Muhammad Shafi. His sad and untimely death no doubt at this juncture in the history of our country is no less than a national calamity. In him India has lost one of her most devoted and capable sons, the Government one of their most trustworthy and sound advisers, and the Mussalmans one of their greatest leaders and the ablest advocates of their cause. Considering the dearth of really capable and self-sacrificing leaders in my community, I can say that the gap which has been caused by the death of Mian Sir Muhammad Shafi will be very difficult to fill. I had the privilege of working under him for about 20 years and with my personal experience I can say that a more charming, a more courteous and a more genial leader it was very difficult to find. As my friend, Sir Hari Singh Gour, has said, although Mian Sir Muhammad Shafi was naturally extremely anxious to safeguard the interests of our community, yet he was equally anxious to achieve the freedom of his country. He worked for that aim throughout the whole of his life and died like a great General in the midst of the field when victory was in sight. Our hearts no doubt go forth in sympathy with his accomplished wife and other members of the bereaved family. I wish to associate myself with the motion which has been moved by the Leader of the House.

Sir Zulfiqar Ali Khan (Nominated Non-Official): I rise to add my contribution to the mournful tribute which has already been paid to the memory of the late Mian Sir Muhammad Shafi by so many speakers. As a Punjabi, I mourn his loss most profoundly. I had known him for a very long time, in fact from the time when he returned from England as a Barrister. He came to deliver a lecture at our college, the Punjab Chiefs College, where I was a student, and we, boys, looked on him with respect as a distinguished member of our community, and he delivered a lecture describing his student life, his social and political life. What he said inspired us with high hopes. I was one of those who thought that Sir Muhammad Shafi was bound to make a mark in the world and so he did, and I may say to my colleagues here that to young students his career was inspiring and he left on us students an impression of his dawning greatness. I met him later on many occasions. Of course, I was a co-worker along with him in political life and I met him for the first time on the Legislative stage in the Imperial Legislative Council where we represented the Punjab together. In the Imperial Legislative Council there were distinguished figures and Sir Muhammad Shafi was not a novice. He was well advanced in political thought and he had already made a great impression in the country. He distinguished himself in all the debates, and in all the intelligent debates, that ensued there, Sir Muhammad Shafi took a leading part. Later on he embarked on great schemes, and he took a leading part in all the great political movements in India. I need not give you a detailed account of all these things, because this is not the occasion to make long speeches. But I may say this, that as a friend he was most genial and most loyal to his friends, and as a politician his career was characterised by sanity of outlook, and at the bar, he was the leader twice and he made such a mark there as few people did before him. The loss of Mian Sir Muhammad Shafi is a national loss, especially at this juncture when I can hardly see

any one like him; but I hope his example will be followed by others. He tried to compose the differences of the communities, and all the warring communities looked to him for the solution of their difficulties. His death is a profound loss to the whole of the country. With these remarks, I add my tribute to his memory.

Nawab Sir Sahibzada Abdul Qaiyum (Nominated Non-Official): Sir, I shall be failing in my duty if I do not associate myself with the motion before the House, not only on account of the personal friendship that I had with the deceased, a friendship of over 40 years' duration, but also on account of the great services rendered by him during the last session of the Round Table Conference, to the cause of the North-West Frontier Province and its constitutional advancement of which I have been just reminded by a friend too. Sir, when we met in London last time, I thought that the case of our province had been ignored but on hearing of Sir Muhammad Shafi's activities in that respect I found I was mistaken. He had, in season and out of season, in public and in private, advocated the cause of the political advancement of our province to such an extent that I do not think either I myself or anybody else from that province could have done it. If it is at all due to the efforts of the Round Tablers that the province is to get equal status with other provinces, the main portion of it, the lion's share of it, should go to the deceased noble man, who fought for that cause. On one or two occasions when I was pleading before the Conference, I found him on his legs taking up the task himself. I must therefore, on behalf of the North-West Frontier Province, associate myself with the motion before the House.

There is one other point to which sufficient reference has not been made by the previous speakers, although they all paid eloquent tribute to the deceased services, I mean his services as a great educationist. He was an Honorary Visitor of, and I should say he was one of the founders of, the Islamia College, Peshawar. In his speech to the Khyber Union of the Institution, when the honorary membership of the Union was conferred on him, he said that there was no reason why the Islamia College, Peshawar, should not follow in the footsteps of the other national universities of India, of the creation of which he was so proud. In his time as Member for Education in the Government of India, I think no less than five Universities had been established in India and he was naturally proud of it. If he had lived for some time more, I would certainly have approached him and reminded him of his remark about the Islamia College, Peshawar, and I am sure that as far as it lay in his power, he would certainly have helped us in achieving that object, as he had done in the constitutional advancement of the province. For these two special reasons, I think I shall be failing in my duty, Sir, if I do not associate myself with the motion.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): I associate myself with the Honourable the Leader of the House and with the other Leaders of the various parties in expressing sorrow at the sad demise of our friend, Sir Muhammad Shafi. I knew him very intimately since 1921. He was then a Member for Education in the Executive Council of His Excellency Lord Chelmsford. Just then the first reformed Assembly was inaugurated, when I also joined, and ever since I have been in close touch with him. I had an opportunity of coming into close contact with him,

[Sir Abdullah Suhrawardy.]

the most hospitable of men. A strenuous fighter of the Muslim cause and a true Indian patriot, a great servant of his country and his community, a valuable counsellor to the Viceroy and a trusted adviser to his King, his passing away creates a void which will not be easy to fill for many years to come. His advocacy of female education was rewarded by the unique distinction of his having by his side as a representative of the womanhood of India his gifted and cultured daughter, the Begum Shah Nawaz; and he had also the supreme satisfaction of receiving in England the testimony of competent authorities to the poetical talents of his grand-daughter, Mumtaz Jahan Begum, the rising poetess of Islam, in Urdu and in English. He was a staunch fighter of the Moslem cause but he was no less a champion of Indian nationalism and the political advancement of India. His nationalism, however, was tempered by his regard and respect for law and order and the constitution characteristic of all great lawyers imbued with the high ideals of the British system of Law and Jurisprudence. In 1913 he presided over the Moslem League, and for the first time it was at his instance, if I am not mistaken, that a resolution was passed by the League to the effect that full responsible government was the ultimate goal of India. A distinguished Son of the Punjab, there was nothing narrow, parochial and provincial in his outlook. Bengal has cause to be specially grateful to him for his recognition of its talents. He often went out of his way, in connection with filling high appointments in his gift, in quest of qualified men whether belonging to his native province of the Punjab or any other province. His services to Islam are well known. He was one of the founders of the Moslem League. In 1917 on the eve of Mr. Montagu's eventful visit to India the Mussalmans of India, as usual, were disturbed and divided partly on account of the War, and partly for lack of proper leadership, and Sir Muhummad Shafi founded the All-India Moslem Association to give the correct lead and expression to sound Moslem opinion. On the eve of the Simon Commission, when Moslem opinion was once more scattered and divided and when as a result of party passion or personal vanity the League was split in twain, it was Sir Muhammad Shafi who once more attempted to rally round his great personality all sound Moslem public opinion. Before the Simon Commission he was the spokesman of Muslim India at Lahore and he sat firm like a rock before the Commission. Assisted by Sir Abdul Qadir and Sir Muhammad Iqbal and other representatives of Muslim India, he sat like a great Commander of an Army or the Captain of a Ship caught in a thunder storm and surrounded with shoals and shifting sands and he faced cool, calm, collected, unperturbed and with great equanimity the ordeal of the volley of questions hurled at him by the informed and the ill-informed, the members of the Simon Commission and the Indian Central Committee. Sir, the loss of such a man is an irreparable loss. It is not only the loss of his family or of his community but, in the words of a great Arab poet, " it is a loss which has shattered the foundations of the hopes and aspirations of a whole nation"

Wa mà kàna Qaysun hulku-hu hulku wàhidin
Wa lakinna-hu bunyànu qawmin tahaddama.

Before I sit down I wish to make a personal reference to his kindness and generosity to me and conclude on a personal note. Years ago when I was a student at college I caught a glimpse of his manly figure and commanding presence at a public meeting. Since then his great personality had exercised the profoundest influence and the most abiding

effect on my career. It was at his instance that I left the attractions of a career in Bengal and went to Lahore and it was his personality which linked me, at any rate, for some time with the Punjab. Sir, I look back to 1917 when he founded the All-India Muslim Association and appointed me as his lieutenant in Bengal. I have already referred to his services to Muslim India when he appeared as a witness before the Simon Commission when I happened to be a member of the Indian Central Committee and the skilful manner in which he piloted the Muslim case. I had always had the privilege of enjoying his generous hospitality, and when he was a Member of the Viceroy's Executive Council, whether in Delhi or in Simla, I had always been a welcome guest. My feelings, therefore, are the feelings of a great personal loss and I feel his loss as the loss of an elder brother. How keenly and eagerly I had looked forward to his presence here but alas, I find his seat vacant.

Ay basa arzu keh khak shudah.
Hàn, ay falak-i-pir!
Jawàn tha abhi Shafi!
Kya tera bigarta jo
Na marta koyi din aur.

"Ho! Hoary Heaven! Shafi was yet young, full of life and hale and hearty: What harm would have come to thee, if he had lived a little while longer?"

Our heart goes out in deep sympathy to Lady Shafi, to his eldest son, Mian Muhammad Rafi and to other members of his family. I wish you, Sir, to convey an expression of our sympathy to her and to the members of the bereaved family in the hope that the knowledge and the consciousness that his loss is the loss of countless millions of his fellow-believers, and his fellow countrymen and of the whole country may to some extent lighten the burden of their sorrow and be a source of some solace and consolation to them. His loss is not the loss of his family, his community or of his country alone. It is the loss of India, of the Empire and of Islam.

Mr. A. H. Ghuznavi (Dacca *cum* Mymensingh: Muhammadan Rural): Sir, as Members of the Round Table Conference, we associate ourselves entirely with what has been said by the Honourable the Leader of the House and other Honourable Members who have just spoken. Sir, we desire to express our profound sorrow at the almost sudden and tragic death of our great and valued colleague, the late Sir Muhammad Shafi. We desire to convey through you, Sir, our deep sorrow to Lady Shafi, Begum Shah Nawaz and the bereaved family and our deepest sympathy with them in their irreparable loss. Sir, no words of ours, no human sympathy, can console them in their affliction, but when they will know that India sincerely mourns the death of Sir Muhammad Shafi, it will undoubtedly lighten the burden of their grief. Sir, to Mussalmans in India his death is reckoned as a great and distinct loss at this transitional period when a new constitution is in the making. He was in the first rank of the Muslim leaders, and to him the Muslim interest was above everything else. When the history of the Round Table Conference will have been written, the world will know what an important part Sir Muhammad had taken both in 1930 and 1931 to make the Conference a success. He was one of those who worked steadily for advancing the federal idea and bringing the Conference to a success. All illegal and unconstitutional action was anathema to him and he was a firm believer in the inestimable value to India of her place in the Empire.

LEGISLATIVE ASSEMBLY.

Tuesday, 26th January, 1932.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President in the Chair.

QUESTIONS AND ANSWERS.

RECRUITMENT OF INDIANS AND EUROPEANS TO THE INDIAN CIVIL SERVICE AND INDIAN POLICE SERVICE.

1. ***Mr. A. Das:** (*a*) Will Government please state whether the recommendations of the Lee Commission have been carried out in regard to the recruitment of Indians and Europeans in the I. C. S. and I. P. S.?

(*b*) Will Government please state in a tabular form the number of Indians and Europeans recruited yearly in the I. C. S. and I. P. S. beginning from 1925 to 1931 by the Government of India and the various Provincial Governments?

The Honourable Sir James Crerar: (*a*) Yes.

(*b*) A statement is placed on the table showing the number of candidates selected each year since 1925.

Number of Europeans and Indians recruited to the Indian Civil Service and the Indian Police Service during the years 1925 to 1931.

Indian Civil Service.

Year.	Europeans.	Indians.
1925-26	20	22
1926-27	28	27
1927-28	37	36
1928-29	36	36
1929-30	35	31
1930-31	25	43
1931-32	24	10*

*Recruitment is not yet complete.

[Mr. K. Ahmed.]

because during those days we had very few Members in fact, none of them except one or two among the elected Members of the Assembly are here. Those days are gone. In *him India has lost a well-wisher* of the country and the Muhammadans have lost a very great friend. By his death the people of the country, and particularly the Muslims, feel very much poorer to-day and the void created by his death will be very difficult to fill.

1 P.M.

Sir Muhammad Shafi was not only a great educationist but a far-sighted politician and able lawyer. He attended the Round Table Conference twice lately, and his expressions there on the subject of the evolution of responsible government created great interest. His views were very liberal. He was a great patriot and his views were shared by many of the Hindus among the moderates. He was not only very liberal in his views but was a great exponent of progressive responsible government in this country. He was generous and kind-hearted; by his charming manners he endeared himself to everyone who came in contact with him. He made no distinction in his treatment towards his opponents or adherents. I remember an occasion in the year 1923 when on the floor of this Assembly there were some passages-at-arms between him and myself. He represented the Government then as Law Member and the discussion went on with regard to the Criminal Procedure Code Amendment Bill, 1898. I was then speaking for the Democratic Party. My Leader was then the late Mr. Justice Seshagiri Iyer. Sir Muhammad Shafi seeing that I was supported not only by my Leader but also by the Associations and Bar Libraries of India, came at once and compromised on behalf of the Government, and as a matter of fact a lot of amendments were accepted without any trouble and they are to-day a part and parcel of the Code. Sir Muhammad Shafi was very compromising with regard to many matters in the Round Table Conference as well. In social matters he held very liberal views. I remember even on *Id-uz-zuha* day at Simla I met certain friends of ours in his house partaking of dishes in celebration of the ceremony. I met the late Sir Benôde Mitter who was then a Member of the Council of State. The *Bakr-Id* festivities he used to celebrate not as a communalist but as a friend of all without making any distinction of Muhammadans or Hindus or even Christians or Europeans. I was very intimately in touch with him from the very beginning to the end. A few days before he expired, he wrote to me a letter and in that letter he is full of kindliness towards his family to which he was greatly attached. This is what he wrote:

"IQBAL MANZIL",
LAHORE,
25th December, 1931.

"My dear Kaheeruddin Ahmed,

Yours of the 20th instant. From the address at the top you will see that I am spending the Christmas week at Lahore. My mother is ill and I cannot leave her in this condition. I am therefore unable to go to Calcutta. Hoping to meet you in Delhi,

With kind regards,

Yours sincerely,
MD. SHAFI."

K. Ahmed Esq., M.L.A.,
Bar.-at-Law,
10, Hastings Street, Calcutta.

Sir, the actions of a man are beyond his control. It is a proverb that "Man proposes but God disposes". Sir Muhammad Shafi had a great mind to come to this Assembly and take up the helm of the department with which he was associated for a long time and at this time of great difficulty when Agriculture, Health and Lands are to-day playing a most important part in the political activities of this country, he would have been of great help not only to the country but to the Government as well. Such help the Government and the people are now deprived of. Sir, I do not think that the aims and objects which Sir Muhammad Shafi had in view could at all be achieved by the present incumbent, who has been lately appointed in his place by the Government. We can do no more than pray to God that his soul in Heaven may remain in peace. It is only fair, Mr. President, that the sympathy and condolence of this House expressing our deep sorrow at his bereavement should be sent to the members of his family over your signature, and also a copy of the motion moved by the Honourable the Leader of the House.

Mr. President: I should like to associate myself with all that has fallen from Honourable Members in lamenting the serious loss which the country has sustained by the premature death of Sir Muhammad Shafi. It is specially unfortunate that he should have passed away at a time when his services to his motherland were likely to prove of the utmost value. I had known Sir Muhammad Shafi since we were fellow workers in the Central Legislature, and from that time our friendship developed and we became very intimate friends. On his return from Europe I congratulated him on his having been selected again for public service in the Central Executive Council. It is very sad indeed that within a few weeks we meet here to mourn the loss of one whom I regarded as a true patriot. I particularly admired his strength of character. He did not believe merely in precepts, but he translated his precepts into practice. His contribution as Education Member of the Government of India in the matter of female education is a typical instance of it. He has given the highest education to his daughter, Mrs. Shah Nawaz, and to other female members of his family, and if on a mournful occasion like this there is to be any consolation, it is that he has left behind him the sturdy patriotism of Mrs. Shah Nawaz.

I will comply with your wishes, Gentlemen, and convey to the family of the deceased the sympathy and the condolence of this House, and as a tribute to his memory, I adjourn the House till 11 o'clock tomorrow.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 26th January, 1932.

Indian Police Service.

Year.	Europeans.	Indians.
1925-26	14	16
1926-27	14	13
1927-28	13	13
1928-29	11	11
1929-30	12	14
1930-31	13	13
1931-32	13	11*

*Recruitment is not yet complete.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to say whether there has been any curtailment in the number of I. C. S. and I. P. S. since the retrenchment campaign came into force?

The Honourable Sir James Crerar: I am not quite sure that I have entirely gathered the purport of the Honourable Member's enquiries. The rates of recruitment year by year are based upon considerations of the state of the cadre, and they vary from year to year. Sometimes the total recruitment is greater, and sometimes it is less. It is not a question of retrenchment, but of recruiting to the cadre in accordance with recognised and established proportions.

Mr. Lalchand Navalrai: May I understand that there can be no curtailment in their number? On account of retrenchment may I ask whether there has been any curtailment in the number of officers?

The Honourable Sir James Crerar: I think the Honourable Member is under a misconception. As I have explained, recruitment to the I. C. S. is based upon regularly fixed arithmetical proportions, and recruitment each year is regulated by the necessities of the case. The question of retrenchment does not arise.

Mr. Lalchand Navalrai: Am I to understand that in the other services there can be curtailment, in their numbers, but not in the I. P. S. and the I. C. S.?

The Honourable Sir James Crerar: No, Sir. I do not think that is the point. I should like to make it clear that recruitment to a large service like the I. C. S. is a very elaborate thing. It is conducted in accordance with calculations on an actuarial basis having regard to the requirements of the cadre.

Mr. Lalchand Navalrai: May I ask whether it is not easy to ask the Secretary of State, since retrenchment has come into force and some of the officers are being done away with, whether the number of the I. P. S. and the I. C. S. . . . ?

Mr. President: Order, order. The Honourable Member is making suggestions for action.

Mr. Lalchand Navalrai: No, Sir. I am only asking for information whether the Secretary of State cannot be asked to do what the India Government is doing here.

Sir Hari Singh Gour: May I beg to enquire whether the necessity mentioned by the Honourable Member has been or will be influenced by the decisions of the Round Table Conference?

The Honourable Sir James Crerar: It is quite possible that the recommendations of the Round Table Conference may have a practical bearing upon the cadres of the public services in India.

NUMBER OF GOVERNMENT PENSIONERS.

2. ***Mr. B. N. Misra:** Will Government be pleased to state:

(*a*) the number of pension-holders of

(i) ten years' standing or less,

(ii) 15 years' standing or above; and

(*b*) the amount of pension given annually under each head for the last 5 years?

The Honourable Sir George Schuster: The information asked for by the Honourable Member is not available. To collect it would involve an expenditure of time and labour which cannot at present be spared.

ABOLITION OF THE BIHAR AND ORISSA POSTAL CIRCLE.

3. ***Mr. Gaya Prasad Singh:** (*a*) Is there a proposal to abolish the Bihar and Orissa Postal Circle, and amalgamate its parts with the United Provinces and the Central Provinces?

(*b*) Are Government aware that this proposal has given rise to much hostile criticism in the Province; and have Government received numerous representations from mercantile and other public bodies protesting against it?

(*c*) Was not the Postal Circle established in 1914, and is it not a fact that in point of volume and nature of work, it compares favourably with the United Provinces, and the Central Provinces?

Is it a fact that the Posts and Telegraphs Department Retrenchment Sub-Committee have not recommended the abolition of this Postal Circle?

(*d*) What is the recommendation of the Local Government with regard to this proposal; and do Government intend to abandon this proposal and allay public feeling in the matter?

The Honourable Sir Joseph Bhore: (*a*), (*b*) and (*c*). The proposal to which the Honourable Member refers is at present under consideration. I am aware that such objections as those mentioned by the Honourable Member have been advanced against it; but I cannot commit myself as to their validity and importance until I have studied the case in all its bearings. The Retrenchment Sub-Committee did not discuss this proposal.

(*d*) The Local Government have not made a recommendation on the subject but have drawn attention to certain reasons for which the abolition of the Bihar and Orissa Circle would be unpopular in the province. I cannot at present anticipate the result of the examination of the case.

Mr. Gaya Prasad Singh: Are Government aware that numerous public meetings have been held in the province presided over by such distinguished gentlemen as Sir Ali Imam, Sir Sultan Ahmad, Mr. Hasan Imam and others protesting strongly against this proposal?

The Honourable Sir Joseph Bhore: I am aware that many meetings have been held in the province.

DANGERS IN CONNECTION WITH ELECTRIC SUPPLY.

4. ***Mr. Amar Nath Dutt:** (*a*) Has the attention of Government been drawn to an article in the *Liberty* of the 21st November, 1931 (Dak Edition), headed "Electric Supply in Calcutta and elsewhere"?

(*b*) Will Government be pleased to state if they propose to take action, legislative or otherwise, to prevent the Companies from dealing with A. C. or take such precautionary measures as will not endanger human life?

(*c*) Is the list of accidents mentioned in the article correct? If so, what action do Government propose to take to prevent loss of lives?

The Honourable Sir Joseph Bhore: (*a*) Yes.

(*b*) Government do not consider that a properly constructed and maintained electrical supply installation on the alternating current system is dangerous to human life. Many of the electrical supply installations not only in India but throughout the world are on the alternating current system and have operated satisfactorily. Government do not propose to prevent companies from dealing with alternating current.

(*c*) The general administration of the Indian Electricity Act and the Rules framed thereunder is undertaken by Local Governments. No reports of the accidents referred to in the article have been received from the Local Governments concerned. Reports of any accidents which have occurred on alternating current supply systems and which have been enquired into by officers appointed by Local Governments, will be obtained with a view to considering whether any modifications in the Indian Electricity Rules, 1922, are necessary.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to say whether under the direct system the accidents are less than under the other system?

The Honourable Sir Joseph Bhore: I am afraid that I cannot give that information to my Honourable friend straight off.

Mr. Lalchand Navalrai: Will the Honourable Member take notice and make enquiries?

RETRENCHMENT OF STAFF IN THE OFFICE OF THE DEPUTY CONTROLLER OF CURRENCY, MADRAS.

5. ***Rao Bahadur M. C. Rajah:** Will Government be pleased to state:

(*a*) whether it is a fact that the Retrenchment Committee presided over by the Deputy Controller of Currency, Madras, have given notice of discharge to the members of the back-ward community contrary to the spirit and letter of the instructions regarding the safeguarding of communal interests; and

(*b*) whether it is a fact that this Retrenchment Committee disregarded the instructions conveyed to them in the Government of India Memorandum of the 3rd August, 1931, referred to above and retained in service two Superintendents and two clerks who have put in more than 30 years and 25 years of service, respectively, and what is the reason?

The Honourable Sir George Schuster: (*a*) No. The orders of the Government of India in the matter were fully carried out in the selection of the personnel for retrenchment. No member of a minority community nor any from the depressed classes was served with a notice of discharge.

(*b*) No. The senior Superintendent has put in more than 30 years' service but his post did not come under retrenchment and so he was not touched. One Assistant Superintendent with more than 30 years' service was in the first instance retained and another with 29 years' service sent away. Later these orders were reviewed and the senior man has been sent away and the junior man retained. No clerk with more than 25 years' service has been retained in service.

INSTRUCTIONS REGARDING REDUCTION OF PAY AND RETRENCHMENT OF PERSONNEL BY THE GOVERNMENT OF MADRAS.

6. ***Rao Bahadur M. C. Rajah:** Will Government be pleased to state whether they have issued any Memorandum of Instructions with regard to the retrenchment of the personnel and the reduction of pay by ten per cent. cuts to be adopted by the Government of Madras? If so, will they place a copy on the table?

The Honourable Sir George Schuster: The Government of India issued no instructions to the Government of Madras with regard to the retrenchment of personnel. The method of applying the policy of a general cut in pay was discussed between the Government of India and Local Governments with a view to secure as great a measure of uniformity as possible; but no instructions of the kind the Honourable Member appears to have in mind were issued, nor would they be consistent with the powers of control of Local Governments over provincial and subordinate services.

SELECTION OF PERSONS FOR RETRENCHMENT IN VARIOUS DEPARTMENTS.

7. ***Rao Bahadur M. C. Rajah:** Will Government be pleased to state:

(*a*) whether they have issued Memorandum No. F.-78-XI-Ex./I/31, dated the 3rd August, 1931, of the Government of India, Finance Department, on the subject of selection of persons for discharge in connection with the retrenchment campaign in several departments under the Government of India including the Controller of Currency and several Deputy Controllers;

(*b*) whether they have received reports from the various departmental heads regarding the action taken on that memo.;

(*c*) heads of which departments have not yet submitted their reports;

(*d*) whether the Controller of Paper Currency is one of them;

(*e*) what steps have Government taken to see that their instructions embodied in the above memo. have been faithfully adhered to by the departmental heads in the notices of discharge under Article 436, Civil Service Regulations, to be given to the employees; and

(*f*) whether the same Memorandum, dated the 3rd August, 1931, has been sent to the several Local Governments including the Government of Madras, or whether the instructions given to the Madras Goverhment are in any way different from those given to other Provincial Governments, or to the heads of departments under the direct control of the Government of India; if so, in what particulars do these differ?

The Honourable Sir George Schuster: Parts (*a*), (*d*) and (*f*). A memorandum of that number and date was issued to all Heads of Departments under the Central Government, but not to Local Governments, which are constitutionally competent to issue their own orders.

Parts (*b*), (*c*) and (*e*). No reports were required of Heads of Departments. Government have no reason to believe that their orders have not been carried out, subject to certain minor modifications which have been approved to suit the special needs of certain Departments.

HOUSE-SCAVENGING TAX IN FEROZEPORE CANTONMENT.

8. ***Mr. S. C. Mitra** (on behalf of Sirdar Sohan Singh): (*a*) Are Government aware that the Punjab Government imposed a tax known as a house-scavenging tax in Ferozepore Cantonment, *vide* its notification No. 716, dated the 9th March, 1906?

(*b*) Is it a fact that the main consideration on which this tax was imposed was the rendering of house-scavenging service, as defined in section 111 of the Punjab Municipal Act, 1891 (XX of 1891), by the Cantonment Authority of Ferozepore?

(*c*) Will Government be pleased to state if any house-scavenging service is rendered by the Cantonment Authority of Ferozepore, and if so, in what form and since when, and if it comes within the definition of section 111 of the Punjab Municipal Act of 1891, quoted above?

(*d*) If the reply to the above question be in the negative, are Government prepared to take immediate steps to suspend the realisation of the tax?

Mr. G. M. Young: (*a*) and (*b*). The answers are in the affirmative.

(*c*) I am informed that House-scavenging, as defined in section 111 of the Act, has been carried out by the usual methods since the date of the imposition of the tax.

(*d*) Does not arise.

BUILDING APPLICATIONS OF INDIANS REJECTED IN PESHAWAR CANTONMENT.

9. ***Mr. S. C. Mitra** (on behalf of Sirdar Sohan Singh): (*a*) Will Government be pleased to state the number of building applications submitted by Indians to the Cantonment Board for sanction during the past three years?

(*b*) What is the number of the applications rejected by the Executive Officer, Peshawar Cantonment, during the above mentioned period?

(*c*) What is the number of appeals relating to building applications cited above sanctioned by the Northern Command?

(*d*) Is it a fact that the Executive Officer, Peshawar Cantonment, has been in the habit of rejecting building applications submitted by Indians on the ground that the accommodation proposed by Indians in the buildings for their residence are unsuitable for the residence of British military officers and messes?

(*e*) Is it not a fact that according to the terms of the Cantonment Act hygiene is the specific ground on which building application can be rejected?

(*f*) If the answers to parts (*d*) and (*e*) above be in the affirmative, will Government be pleased to state why this marked irregularity committed by the Executive Officer in his time of service, has not been checked by the Northern Command to whom appeals had been submitted?

Mr. G. M. Young: (*a*) The Honourable Member is presumably referring to the Peshawar Cantonment. Government understand that the number of applications for the period is 217.

(*b*) Nil.

(*c*) Four appeals were submitted of these, one was accepted.

(*d*) No.

(*e*) Section 181 of the Cantonments Act, 1924, contains the grounds on which applications can be rejected.

(*f*) Does not arise.

RAILWAY SALOONS PROVIDED FOR RAILWAY OFFICIALS.

10. ***Mr. B. R. Puri:** (*a*) Will Government be pleased to state what is the total number of saloons on all Indian railways which are reserved for the use of railway officials for travelling?

(*b*) What are the classes of officials who are provided with saloons?

(*c*) What is the cost incurred in the construction and equipment of these saloons and the cost of their up-keep?

(*d*) What is the average cost per mile of these saloons when they are running on the line?

(*e*) What is the total number of miles which these saloons have run per year during the last five years?

(*f*) What would be the corresponding amount of income if these saloons were to do the same amount of mileage at the expense of private persons?

(*g*) What would be the corresponding amount of cost to the railways if these officials travelled as first class passengers for the same distance?

(*h*) Are these saloons also provided with extra accommodation of a superior kind over and above that which is required by the officer himself, and if so, on what principle and with what object is this done?

(*i*) What is roughly the percentage of deterioration on their original cost?

(*j*) Have Government considered the question of effecting any economy in this connection?

Sir Alan Parsons: I am afraid the information for which the Honourable Member asks in paragraphs (*c*) to (*g*) and (*i*) of his question is not available. Accounts of mileage and cost of upkeep of saloons are not maintained separately from the accounts for other types of coaching stock. The other information for which he asks is as follows:

(*a*) 944. This number includes carriages reserved for pay clerks and weigh bridge and other inspectors.

(*b*) Generally officers of district rank or above whose duties require them to travel extensively.

(*h*) Some saloons are provided with accommodation for more than one officer and two or more officers travel on occasions in such saloons.

(*j*) Yes.

Dr. Ziauddin Ahmad: Is it not a fact that the Railway Retrenchment Sub-Committee recommended that the number of these saloons should be curtailed? Has any action been taken on this?

Sir Alan Parsons: The Honourable Member was a member of that Sub-Committee and is aware that their recommendations are being considered.

Mr. Lalchand Navalrai: Has any effect been given to that recommendation?

Sir Alan Parsons: The Railway Board, I may say, are very doubtful whether a reduction in the number of saloons, without a reduction in the number of officers would be economical at all. Probably it would have to be accompanied by the building of a large number of additional rest houses at small stations.

Sir Hari Singh Gour: The Honourable Member said that the recommendation of the Retrenchment Committee is being considered and in the next breath he says that there is no possibility of any reduction being made.

Sir Alan Parsons: I said that the recommendation was being considered. At the same time I gave reasons for believing that it will not be accepted. The consideration of the recommendation, as far as my knowledge goes, has not yet been completed.

Dr. Ziauddin Ahmad: In view of the fact that the number of officers is being curtailed at present, will it not be desirable to curtail the number of saloons also?

Sir Alan Parsons: That would follow from a decrease in the number of officers for whom saloons are provided.

ENGLISH TIME TABLES OF THE NORTH WESTERN RAILWAY.

11. ***Mr. B. R. Puri:** (*a*) Will Government be pleased to state what is the approximate number of copies of the English Time Tables of the North Western Railway printed during the course of the year?

(*b*) What is the annual cost of its publication and the income derived from the sale of these Time Tables?

(*c*) What is the income derived under the head "Advertisements" published in it?

(*d*) Are these advertisements secured and canvassed through private agencies on payment of commission and, if so, what are those agencies and what is the amount of commission so paid?

(*e*) If no outside agencies are employed and the securing and canvassing of advertisements is carried on by the railway staff, what is the annual cost incurred in maintaining the necessary establishment for this purpose?

(*f*) Is it correct that formerly outside agencies were employed for the securing of such advertisements but for some time this has been replaced by the departmental staff and, if so, has this change proved profitable to the railway?

(*g*) In view of the financial situation, are the railway mindful of the possibilities of securing substantial income from such advertisements, if the Time Tables are properly utilised for the purpose?

(*h*) Do Government realise the advantages of making the Time Tables more attractive and useful?

Sir Alan Parsons: The North Western Railway issue two publications showing the timings of trains, one called "the Time and Fare Table" which is sold at 3 annas per copy, and the other "Abstract Time Table" which is sold at 1 anna per copy. Revised editions of these time tables are issued generally every half year when a large number of important changes have been made in train timings.

(*a*) Taking the editions issued since March 1930 the average number of copies published was:

Time and Fare Table	...	55,068
Abstract Time Table	...	7,069

(*b*) The average cost per edition was:

		Rs.
Time and Fare Table	...	17,732
Abstract Time Table	...	688

The income from sales of the editions issued in 1930, after allowing commission paid on sales, averaged per edition:

		Rs.
Time and Fare Table	...	9,070
Abstract Time Table	...	167

The sale accounts of the 1931 editions have not yet been finally compiled.

(*c*) The average annual income based on the figures of the last 5 years was Rs. 6,300.

(*d*) The majority of advertisements are received through Advertising Agents who are allowed a commission of 20 per cent. on new advertisements and 15 per cent. on renewals. A few advertisements are received direct from advertisers.

(*e*) Does not arise.
(*f*) No.
(*g*) and (*h*). Yes.

CRACKS IN THE ROOF OF THE ATTIC STOREY OF THE COUNCIL HOUSE BUILDINGS.

12. ***Maulvi Sayyid Murtuza Saheb Bahadur:** (*a*) Are Government aware that serious cracks have appeared in the roof of the attic storey of the Council House? If not, do Government propose to enquire into them?

(*b*) Is it a fact that P. W. D. Officers gave their verdict that these are due to defective construction?

(*c*) If so, do Government propose to take action against the Superintending Engineer responsible for such defective construction? If not, why not?

The Honourable Sir Joseph Bhore: (*a*) No.

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

APPOINTMENT OF MUSLIMS IN THE TELEGRAPHS DEPARTMENT.

13. ***Mr. M. Maswood Ahmad:** (*a*) Has the attention of Government been drawn to an article published in the daily *Eastern Times* of Lahore in its issue of the 12th November, 1931, under the caption "Muslims and Telegraphs Department", which shows that out of a total number of 278 gazetted posts in the Traffic and Engineering Branches of the Indian Telegraph Department, 210 (*i.e.*, 76 per cent.) are occupied by Europeans and Anglo-Indians, and the remaining 68 (*i.e.*, 24 per cent.) by Hindus, and that Muslims are conspicuous by their total absence?

(*b*) Will Government be pleased to state whether the information contained therein is correct?

(*c*) If the answer to part (*b*) be in the affirmative, will Government be pleased to state, what immediate steps they have taken to redress this communal inequality? If not, why not?

The Honourable Sir Joseph Bhore: (*a*) Yes.

(*b*) No. In so far as the article purports to give the position of Muslims in the gazetted ranks of the Traffic and Engineering Branches as a whole, it is misleading owing to certain omissions in the figures supplied.

(*c*) Does not arise.

SAVINGS TO BE EFFECTED IN MILITARY DEPARTMENTS BY THE 10 PER CENT. CUT IN SALARIES.

14. ***Mr. Goswami M. R. Puri:** Will Government be pleased to state what would be the total savings in the Military Department for 1932-1933 on account of the proposed 10 per cent. cut in salaries?

Mr. G. M. Young: The anticipated saving is approximately Rs. 1 crore and 35 lakhs.

SAVINGS IN CIVIL EXPENDITURE TO BE EFFECTED BY THE 10 PER CENT. CUT IN SALARIES.

15. ***Mr. Goswami M. R. Puri:** (*a*) Will Government be pleased to state what would be the total savings in the Civil expenditure for 1932-33 on account of the proposed 10 per cent. cut in salaries in different departments?

(*b*) Will Government be pleased to state the share in the savings under part (*a*) for each of the following services under the Central Government: (1) All-India services, (2) Central services Class 1, (3) Central services, Class 2, (4) Specialist services and (5) Subordinate services?

The Honourable Sir George Schuster: (*a*) The information asked for by the Honourable Member is not yet available. The savings in question can be determined only after the Demands for Grants for 1932-33 have been voted by the Legislatures, Central and Provincial. I would however refer the Honourable Member to the information already given in my speech made in this House on the 4th November last when moving for consideration of the Finance Bill.

(*b*) The classification of the savings under these heads will involve an expenditure of time and labour incommensurate with the utility of the results.

APPOINTMENTS ABOLISHED IN THE CENTRAL CIRCLE OF THE POSTAL AND RAILWAY MAIL SERVICE.

16. ***Mr. Goswami M. R. Puri:** (*a*) Will Government be pleased to state the number of posts abolished in the Central Circle in the Postal and R. M. S. branches from the 1st July, 1931, in the matter of:

(i) Departmental Branch Post Masters,
(ii) Overseers,
(iii) Postmen and village postmen,
(iv) Mail peons,
(v) Packers,
(vi) Messengers and Runners, and
(vii) Clerks in the post offices and R. M. S. offices?

(*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 the 1st July, 1931?

Mr. T. Ryan: The information is being collected and will be furnished to the Honourable Member in due course.

RETIREMENT OF OFFICERS IN GOVERNMENT OF INDIA DEPARTMENTS.

17. ***Mr. Goswami M. R. Puri:** (*a*) Will Government be pleased to state what action has been taken to retire officers who have put in 30 years' service in the Imperial and Central Government including provincial service officers at present serving in the Central departments of the Government of India?

(*b*) Are there any such officers still in service?

(*c*) Will not the retirement of such officers result in the saving of expenditure in salaries?

(*d*) Do Government propose to retire such officers immediately?

The Honourable Sir George Schuster: (*a*) In virtue of the provisions of section 96-B (3) of the Government of India Act and rules 9 and 58 (3) of the Civil Services (Classification, Control and Appeal) Rules, serving officers of the Superior and Provincial Services can be compulsorily retired before they reach the age of superannuation only if reductions are being made in the number of posts in the cadre of their Service or if they are personally inefficient. *When retrenchment of staff has to be effected,* Government servants with 30 years' service or over are placed high in the order of selection for compulsory discharge.

(*b*) Yes.

(*c*) In most cases there would be an immediate but shortlived saving in salaries accompanied by a concurrent addition to pensionary charges which may ultimately exceed the saving effected on salaries. Thus the general retirement of those with over 30 years' service would not be an economy unless accompanied by retrenchment of posts.

(*d*) For reasons already explained this action can only be taken in connection with reductions of posts and not as a general practice.

Diwan Bahadur A. Ramaswami Mudaliar: In connection with the scheme of retirement, is it a fact that persons who are so retired are unable to avail themselves of the leave which they may have accumulated, before the retirement actually comes into effect?

The Honourable Sir George Schuster: Is my Honourable friend suggesting that officers whose services are dispensed with on grounds of retrenchment are not allowed any of the leave to which they are entitled?

Diwan Bahadur A. Ramaswami Mudaliar: I am not suggesting that I am only asking for information whether persons who are retrenched or who are retired under this scheme are entitled to the leave which they may have accumulated and have been given that leave?

The Honourable Sir George Schuster: They are given their leave. The matter is one of some complication and I should be very pleased to furnish the Honourable Member with the exact instructions which have been issued on the subject. I think he will agree that officers who are retired under this retrenchment scheme have been treated very generously.

Diwan Bahadur A. Ramaswami Mudaliar: I am not complaining of that. In that case I would only ask whether there will be any immediate saving at all.

The Honourable Sir George Schuster: My Honourable friend's point raises a very difficult question. In effecting retrenchment in many cases there is no immediate saving because a large portion of the leave still remains to be taken.

DESTRUCTION OF INSUFFICIENTLY STAMPED POSTCARDS.

18. ***Mr. S. C. Mitra:** (*a*) Have Government seen the notice issued by the Post Master, Delhi, and probably repeated by other Post Masters all over India, that all postcards insufficiently stamped will be destroyed?

(*b*) Is it a fact that over 2,000 postcards were destroyed by the New Delhi postal authorities alone on the 15th December last?

(*c*) What is the authority for this action of the Post Master?

(*d*) Is it a fact that letters and postcards insufficiently stamped are returned to senders by the post offices of European countries? If the reply be in the affirmative, why cannot the same system be introduced in India?

(*e*) Have Government considered the possibility of the extra one pice stamp not adhering to postcards and falling off?

(*f*) What is the reason for destroying postcards *ad lib*?

(*g*) Have Government read in the *Times of India* a letter from the proprietor of an English firm that he is willing to pay the extra pice on all insufficiently stamped cards received by him or his firm?

(*h*) Do Government realise that there are many other firms and members of the public who would be glad to do likewise on cards from customers, relations and friends?

(*i*) Considering the above, do Government propose to withdraw the notices for destroying postcards if not properly stamped?

(*j*) If not, what gain do Government hope to derive by destroying a document bearing His Majesty's portrait used by His Majesty's people?

The Honourable Sir Joseph Bhore: (*a*), (*e*), (*g*) and (*h*). Yes.

(*b*) and (*i*). No.

(*c*) Does not arise.

For the rest I may explain that the decision that insufficiently stamped postcards should be destroyed is not a new one. It is a statutory rule which has been in force for many years. Government are not aware of the practice in all European countries. They are however satisfied that the existing rule is a necessary one in Indian conditions. The attention of the public was prominently drawn to the rule recently, for their own protection when postage rates were changed; and for a time, allowed to enable the notices on the subject to be widely circulated, insufficiently stamped postcards were permitted as a special case to be delivered. The risk of stamps falling off the cards is not considered serious enough to necessitate special orders, and the need for using adhesive stamps will soon vanish when the new postcards, now being printed, are on sale.

Sir Hari Singh Gour: Is it a fact that this rule for the destruction of insufficiently stamped postcards was issued when the postage rate on a postcard was one pice, and now that it has been trebled, would the Government be pleased to reconsider their decision in view of the fact that the Honourable Member stated on the last occasion, speaking on this subject, that in strict logic the postal rate should be $2\frac{1}{2}$ pice but it has been fixed for convenience at 3 pice?

The Honourable Sir Joseph Bhore: I do not think that the actual increase in the postcard rate affects the principle involved in this case, which is merely that in the case of a postcard it is comparatively easy for the addressee to read its contents and return it, in which case of course the whole object of our increase in rates would be defeated.

Mr. S. C. Mitra: Will the Honourable Member kindly explain what are the Indian conditions to which he referred. As regards the other portion of the answer, the postman can keep the card which is insufficiently stamped without allowing the addressee to read it.

Sir Hari Singh Gour: Or they may be retained in the post office.

The Honourable Sir Joseph Bhore: We cannot control our postmen sufficiently to see that they treat these matters in a perfectly honest manner and it is for that reason, Sir, that we anticipate that the removal of this rule will result in a considerable loss to Government revenues.

Sir Hari Singh Gour: Would not the Honourable Member consider the advisability of retaining in the post office insufficiently stamped postcards and sending an intimation to the addressee that he should pay up the deficit and then take delivery of the postcard?

The Honourable Sir Joseph Bhore: My Honourable friend does not seem to realize the extra work entailed.

Sir Hari Singh Gour: Does not the Honourable Member realize that the principle is more money and more service?

Mr. Amar Nath Dutt: Is the Government aware that the only service that is generally considered to be honest is that of the subordinates of the Postal Department?

The Honourable Sir Joseph Bhore: Far be it from me to cast any aspersion upon other subordinates?

Dr. Ziauddin Ahmad: May I ask if this practice has been followed in any other civilized country except India?

The Honourable Sir Joseph Bhore: I told the Honourable Member that I was not aware of the practice in all European countries.

Diwan Bahadur Harbilas Sarda: May I ask if it is not possible for Government in future to sell postcards from post offices only on payment of three pice each and, in order to indicate the value of that postcard which at present bears a stamp of only six pies, a seal might be put on every postcard to show that nine pies or three pice have been paid on it? This will obviate the necessity of fixing a three pie stamp on it and also obviate all the difficulties mentioned,—considering also that it is the duty of Government when selling envelopes and postcards to have full stamps fixed on them?

The Honourable Sir Joseph Bhore: It has escaped my Honourable friend I think that I definitely, in the course of my reply, stated that we were printing new postcards which would obviate the necessity of the use of adhesive stamps. I hope these new postcards will be available for public use very shortly; at the present moment they are actually being printed.

Mr. Lalchand Navalrai: Does not the Honourable Member know that in the case of bearing letters these are not being delivered to the addressees but they are offered for delivery when the balance of postage is paid up? Cannot the same thing be done in the case of postcards?

The Honourable Sir Joseph Bhore: I have suggested, Sir, that there is a difference between a letter and a postcard.

Dr. Ziauddin Ahmad: Is it not desirable, Sir, to postpone the destruction of postcards till these new postcards are available for the public?

The Honourable Sir Joseph Bhore: Certainly not, Sir.

Mr. K. Ahmed: In view of the fact, Sir, that half an anna has already been incurred by the sender of a postcard, and in view of the answer given by the Honourable Member to the Member from Karachi, namely, that bearing letters are not destroyed but are offered for delivery pending payment of the balance of postage, although in this case the Honourable Member said that according to him there is a distinction without a difference between the case of postcards and of letters—and in view of the fact that only a matter of a quarter of an anna remains to be paid for each of the postcards, are the Government aware that cause of action would lie against them for non delivery of the postcards though insufficiently stamped, including court fees and solicitor's costs as damages?

Mr. President: Order, order.

The Honourable Sir Joseph Bhore: Sir, I have not been able to follow my Honourable friend's speech.

Mr. Amar Nath Dutt: Is it a fact that in Bengal up to 1931 half an anna postcards were allowed to be delivered and no extra charge was made?

The Honourable Sir Joseph Bhore: I have already explained, Sir, that for a certain limited period insufficiently stamped postcards were permitted as a special case to be delivered, in order to obviate special hardship to the public.

RETENTION OF CERTAIN DEPARTMENTS IN DELHI DURING THE SUMMER.

19. ***Mr. S. C. Mitra:** (*a*) Is it a fact that the Government of India accepted the recommendation of the Retrenchment Sub-Committees about the exodus to Simla, at least for the Departments of Indian Stores, Imperial Council of Agricultural Research, Archæology and Public Service Commission?

(*b*) Is it also a fact that the heads of these Departments also agreed to the suggestion?

(*c*) Is it a fact that the Chief Engineer, Delhi (Mr. Brebner), opposed the proposal for keeping the offices permanently in Delhi before the Retrenchment Sub-Committee on the ground that there will be scarcity of water and shortage of electric fans?

(*d*) Is it not a fact that Mr. Jones, the Superintending Engineer, stated before the Retrenchment Sub-Committee, "the Government of India could stay in Delhi all the year round" and suggested that he anticipated no difficulty if the water supply were improved? Did not Mr. Jones attribute the scarcity of water to wastage of water owing to the fact that meters have not been installed in the quarters for the staff?

(*e*) Did not Mr. Brebner state before the Public Accounts Committee that there are large stocks of fans in the stores of the Public Works Department costing nearly Rs. 5 lakhs which are not fully utilised?

(*f*) Is it not a fact that in certain portions of the Secretariat there is a vacuum system for cooling the rooms?

(*g*) What will be the additional income from rents of the quarters if there is a recovery of rent from the tenants throughout the year?

(*h*) Do Government charge any rent for the fans supplied to tenants of Government buildings? What is the income derived from such rent?

The Honourable Sir George Schuster: With your permission, Sir, I will answer questions Nos. 19 and 37 together.

The matter is still under examination by Government. Various considerations have to be taken into account which have not yet been finally settled. A decision will however be reached very shortly.

PROPORTION OF EUROPEAN TO INDIAN OFFICERS RETRENCHED IN CENTRAL DEPARTMENTS.

25. ***Mr. S. C. Mitra:** Will Government please state what is the proportion of the European to Indian officers retrenched in the Central Departments as the result of the financial stringency? Has retrenchment in any way retarded the process of Indianisation of the services?

The Honourable Sir James Crerar: The information is being collected and will be furnished to the Honourable Member in due course.

The reply to the second part of the question is in the negative.

RETRENCHMENT UNDER DELHI CAPITAL OUTLAY.

26. ***Mr. S. C. Mitra:** Will Government please state what action has been taken as regards Grant No. 97—Delhi Capital Outlay, item No. 6 of the recommendation of the Public Works Retrenchment Sub-Committee? Is it a fact that Government accepted it in full? What decision has been made regarding items Nos. 2, 3 and 4 of the recommendations?

The Honourable Sir Joseph Bhore: *Item No. 6.*—As stated in paragraph 47 of the Public Works, Retrenchment Sub-Committee's Report, the Chief Engineer, Central Public Works Department, had already proposed savings to the extent of Rs. 63,900 in respect of miscellaneous appointments controlled by him. These have been or will shortly be given effect to. Further, the post of Assistant Superintendent, Horticulture, referred to in paragraph 46 of the Report has been abolished. The question of the Superintendent will be considered on the retirement of the present incumbent.

Items Nos. 2 and 3.—The recommendations in these items will be considered after the details of the works required in connection with the Military College at Dehra Dun have been settled.

Item No. 4.—The following posts have been abolished covering a saving of Rs. 57,400 in pay:—

One Superintending Engineer, Electrical and Mechanical Circle.

One Architect.

Two Architectural Assistants.

In addition, the post of Superintending Engineer, Health Services (Sanitary Engineer), and the staff attached to the post will be removed from the cadre of the Central Public Works Department; the saving to the Department on this account will be Rs. 47,900.

RETRENCHMENT OF I. C. S. OFFICERS IN THE CUSTOMS DEPARTMENT.

27. ***Mr. S. C. Mitra:** Is it a fact that the only two Indian I. C. S. officers who were in the Customs Department have been retrenched from the Department? Will this not lead to the possibility of no Indian getting the superior important posts in the Department for many years to come?

The Honourable Sir George Schuster: *First part of the question.*—The position is not exactly as stated. It has been decided to hold in abeyance two substantive posts of Assistant Collector of Customs reserved for the Indian Civil Service. These two posts were held, one by a European and one by an Indian. It is however true that, had the decision to hold these appointments in abeyance not been reached, they would at an early

date have both been occupied by Indians, one substantively and one in an officiating capacity, the European being on long leave.

Second part of the question.—No; the officers concerned have been told that their reversion does not prejudice their prospects of selection for a Collectorship when a vacancy arises.

PARTICULARS OF STATE PRISONERS.

28. ***Mr. S. C. Mitra:** Will Government please place on the table a statement giving the names of the State prisoners, the date of their arrest or detention, names of the jails where detained and the allowances granted to each of them?

The Honourable Sir James Crerar: It is presumed the Honourable Member does not require information regarding Moplah prisoners dealt with under Madras Regulation II of 1819, the majority of whom are not under detention in jails. I lay a statement on the table as regards other State prisoners, giving the names and the dates since when they have been under detention.

List of State Prisoners in Jail under Regulation III of 1818.

Name of State Prisoner.	Date from which detained.
1. Abdul Waris *alias* Bashir Ahmad	28th August 1930.
2. Fazal Elahi *alias* Qurban	Do. do.
3. Ghulam Muhammad *alias* Aziz Hindi	Do. do.
4. Ihsan Elahi	9th February 1931.
5. Harjap Singh	14th April 1931.
6. Karam Singh	21st May 1931.
7. Jiban Lal Chaterji	23rd November 1931.
8. Benoyendra Nath Ray Chaudhuri	Do. do.
9. Trailakhya Charan Chakrabartty	Do. do.
10. Pratul Chandra Bhattacharji	Do. do.
11. Surendra Mohan Ghosh	Do. do.
12. Pratul Chandra Ganguli	Do. do.
13. Satya Bhusan Gupta	24th November 1931.
14. Manoranjan Gupta	Do. do.
15. Bhupendra Kumar Datta	Do. do.
16. Arun Chandra Guha	Do. do.
17. Ramesh Chandra Acharji	25th November 1931.
18. Rabindra Mohan Sen Gupta	Do. do.
19. Jyotish Chandra Ghosh	1st January 1932.
20. Purna Chandra Das	Do. do.
21. Bhupendra Kishore Rakshit Ray	2nd January 1932.
22. Rasik Lal Das	Do. do.
23. Suresh Chandra Das	Do. do.
24. Bhupati Mazumdar	Do. do.
25. Subash Chandra Bose	3rd January 1932.
26. Jatindra Mohan Sen Gupta	20th January 1932.
27. Abdul Ghaffar Khan	24th December 1931.
28. Doctor Khan Sahib	Do. do.
29. Sadullah Khan	Do. do.
30. Qazi Ataullah	Do. do.

List of State Prisoners in jail under the Bombay Regulation XXV of 1827.

Name of Prisoner.	Date from which detained.
M. K. Gandhi	4th January, 1932.
Vallabhai Patel	Do. do.

TRANSFER OF BENGAL DETENUS TO OTHER PROVINCES.

29. ***Mr. S. C. Mitra:** Will Government please state under what laws or regulations some of the Bengal detenus have been transferred to other Presidencies, and the names of the different Provinces to which they have been transferred? Was there any objection raised at first, by any of these Provinces to such transfers, and if so, what were the objections?

The Honourable Sir James Crerar: Certain persons previously dealt with under the Bengal Criminal Law Amendment Act have since been interned in jail under Regulation III of 1818 in the provinces of Madras, Punjab, the Central Provinces and the North West Frontier Province with the concurrence of the Local Governments concerned.

APPOINTMENT OF BURSAR AND WARDEN IN THE LADY HARDINGE MEDICAL COLLEGE, NEW DELHI.

30. ***Mr. S. C. Mitra:** (*a*) Is it a fact that the post of Bursar and Warden in the Lady Hardinge Medical College, New Delhi, has fallen or is going to fall vacant and applications have been called for by advertisement in the *Times of India*?

(*b*) If so, by what date are the applications to reach the authority concerned? Why no such date has been mentioned in the advertisement?

(*c*) Will Government be pleased to state if there has ever been an Indian lady who occupied the position of Bursar and Warden in the Lady Hardinge Medical College?

(*d*) If the reply to part (*c*) is in the negative, do Government propose to appoint an Indian lady to that post this time? If not, why not?

Sir Frank Noyce: (*a*) Yes. The post was also advertised in other papers.

(*b*) As soon as possible. It was not considered necessary to specify the date by which applications would be submitted, because it was clearly stated in the advertisement that a new incumbent must be found for the post by March, 1932.

(*c*) No Indian lady has yet occupied the position.

(*d*) The appointment is made by the Governing Body of the Institution, who will no doubt give due consideration to all applications received.

TERMS OF SERVICE OF OFFICERS, CLERKS, STOREKEEPERS, ETC., IN THE INDIAN ARMY SERVICE CORPS.

31. **Mr. S. C. Mitra** (on behalf of Sirdar Sohan Singh): (*a*) Will Government of India be pleased to state:

(i) whether it is a fact that the terms of service of
British Officers
British Other Ranks
Indian Officers
Indian Other Ranks, and
Followers
} of the I. A. S. C.
and
Clerks of Departments other than the I. A. S. C., *e.g.*, Veterinary, Remounts, Indian Corps of Clerks, Ordnance, Military Works Services, Indian Hospital Corps, etc.,
have been revised and considerably improved as compared with those that existed before the Great War; and

(ii) whether it is a fact that the prospects of clerks and storekeepers of the I. A. S. C. have gone from bad to worse after the Great War and that several representations and memorials have been submitted by the Indian Superior Personnel of the I. A. S. C. and also by their recognized association for the betterment of their prospects from time to time since the Great War?

(*b*) If the reply to the above question is in the affirmative, will the Government of India be pleased to state what action they propose to take to ameliorate the conditions of service of clerks, storekeepers and checkers of the I. A. S. C.? Will Government be pleased to state why this differential treatment has been accorded to the Indian Civilians of the I. A. S. C.?

(*c*) If the reply to part (*a*), item (i) is in the negative, will Government be pleased to state the rates of pay and other allowances and concessions admissible to the personnel mentioned in that part of the question separately before and after the Great War?

(*d*) If the reply to part (*a*), item (ii) is in the negative, will Government be pleased to state the maximum rate of pension on which the Indian Civilians of the I. A. S. C. could retire before the Great War and after the revision of pay in 1916 and what maximum pension they can get under the existing rates of pay?

Mr. G. M. Young: (*a*) (i) Generally speaking the answer is in the affirmative.

(ii) The answer to the first portion is in the negative and that to the second in the affirmative.

(*b*) No differential treatment was intended and it is not proposed to take any action in the matter. The rates of pay of clerks of the Indian Army Service Corps compare favourably with those of the clerical establishments of other departments of the Indian Army.

(*c*) Does not arise.

(*d*) The figures are Rs. 150, Rs. 150 and Rs. 187-8-0 a month.

ERECTION OF A FACTORY AT BOMBAY FOR THE MANUFACTURE OF VEGETABLE GHEE.

32. ***Mr. S. C. Mitra** (on behalf of Sirdar Sohan Singh): (*a*) Is it a fact that Government are realising about twenty-five lakhs customs revenue annually on vegetable ghee imported into India mostly from Holland?

(*b*) Has the attention of the Honourable the Finance Member been drawn to the *Times of India*, dated the 26th May, 1931, page 5, column 3, which gives the news:

(i) that vegetable ghee manufacturers of Holland are putting up a huge factory at Bombay at a cost of 25 lakhs of rupees under the name of their private limited company called the Hindustan Holland Vanaspati Trading Company, Limited, Bombay;

(ii) that the factory is now almost completely erected and is to commence turning out vegetable ghee next month?

(iii) that its output which is designed to be 30,000 cases monthly immediately with provision for extension in no time to 50,000 cases monthly will completely cover the entire present imports; and

(iv) that thereby Government will with effect from next month lose the entire income of Rs. 25,00,000 annually, to save which the factory has been erected by the Dutch Syndicate in India?

(*c*) Do not Government recollect that there have been widespread complaints of mixture of vegetable ghee with pure ghee and that this point has been discussed several times in the Council of State as well as in the Assembly, Government always promising enquiry and support?

(*d*) Do Government propose to provide in the Finance Bill that the existing duty on vegetable ghee as also the proposed surcharge thereon will be levied with immediate effect on all vegetable ghee whether imported into or manufactured in India? If not, why not?

The Honourable Sir George Rainy: I would refer the Honourable Member to my answer to starred question No. 1355 by Sirdar Harbans Singh Brar on the 17th November, 1931.

EXPENDITURE INVOLVED IN MOVING THE 1ST BATTALION, THE RIFLE BRIGADE.

33. ***Mr. Gaya Prasad Singh:** (*a*) Will Government kindly state where the 1st Battalion, the Rifle Brigade, was stationed during the last 6 months, indicating the dates of its movements, the places visited by it, the amount of expenditure involved in such move, and the sources from which such expenditure was met, and the amount, if any, realized from any outside source?

(*b*) What other troops were similarly placed during the same period, and how are their costs to be met, and the amount of money so involved?

Mr. G. M. Young: I lay on the table a statement giving the information desired.

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1. The 1st Battalion, the Rifle Brigade, left Jullundur on the 3rd November 1931, arrived at Jammu on the following day and returned to Jullundur on the 21st December.

2. The 2nd Battalion, The Border Regiment, left Rawalpindi and arrived at Mirpur on the 4th November 1931. The Battalion less 1 company withdrew to Jhelum on the 22nd November and thence to Rawalpindi on the 24th December, 1931. The company which had remained at Mirpur, withdrew to Rawalpindi on the 2nd January 1932.

3. Detachments and patrols of Infantry and Cavalry Regiments stationed at Sialkot were employed in Kashmir for varying periods during November and December 1931.

4. 1 company of the 4/2nd Punjab Regiment was sent to Puddukkottai State on the 16th July, 1931. Half the company withdrew on the 25th July and the remainder on the 7th September 1931.

The expenditure above normal involved by the employment of troops in Kashmir will be met by the Darbar The amount is not yet known.

The expenditure above normal on the company sent to Pudukkottai was about Rs. 1,608, of which the Darbar have agreed to pay about Rs. 724: they are being asked to pay the balance of Rs. 884, which was spent on a special grant of 4 annas a day to Indian soldiers for rations.

PROSCRIPTION OF CERTAIN HINDI BOOKS IN AJMER.

34. ***Mr. Gaya Prasad Singh:** (*a*) Is it a fact that two Hindi books the *Yug-dharma*, and the *Aniti ki Raha Par*, published by the Sasta Sahitya Mandal, Ajmer, have been proscribed by the local authorities, and the books seized by the Ajmer police recently?

(*b*) Are Government aware that *Yug-dharma* is a mere collection of Hindi articles that have appeared in different journals from time to time, but have never been objected to; and that *Aniti ki Raha Par* is a literal translation of Mahatma Gandhi's work entitled *Self-Restraint* vs. *Self-Indulgence*, which is a collection of his articles advocating celebacy, and condemning artificial methods of birth control?

(*c*) What is the name, and what are the qualifications of the man, who has to do the translation work in the department, and on whose report the action has been taken?

(*d*) Are Government aware that the Sasta Sahitya Mandal, Ajmer, represented the matter to the Chief Commissioner, Ajmer-Merwara, on the 10th December, 1931, pointing out the facts of the case, and the "absolutely stupid action" to quote from the representation of the local authorities?

(*e*) Are Government prepared to point out the objectionable passages in the books; and also the reason why the original publications were not interfered with?

(*f*) Is it a fact that during the short space of a year, as many as 4 publications of this Sahitya Mandal, have been proscribed?

Mr. C. W. Gwynne: The information is being collected and will be communicated to the Honourable Member in due course.

CIRCULAR TO THE MILITARY AUTHORITIES AT CHITTAGONG TO REFRAIN FROM REPRISALS ON COMMUNAL LINES.

35. ***Mr. Gaya Prasad Singh:** Is it a fact that a circular has been issued at the instance of His Excellency the Commander-in-Chief to the military authorities at Chittagong (Bengal) not to be a party to any act of reprisals on communal lines there? If so, will Government be pleased to place a copy of it, or of any circular on similar lines, on the table?

Mr. G. M. Young: No circular of the kind mentioned has been issued; but the Military are acting in the closest co-operation with the civil authorities in the operations in the Chittagong District, which are being carried out with the greatest restraint and discipline, and with the minimum of inconvenience to the public of all communities.

ADMINISTRATIVE POSITION OF BERAR IN RELATION TO CONSTITUTIONAL REFORM.

36. ***Mr. Gaya Prasad Singh:** (*a*) Will Government kindly make a short statement with regard to the administrative position of Berar in relation to constitutional reform? Will this territory continue to be a portion of the Central Provinces, as at present, in the matter of franchise, federation and other matters?

(*b*) If any change in the status of this territory is contemplated will the people of Berar be consulted on the principle of self-determination?

Mr. C. W. Gwynne: The question of the administration of Berar in the future constitution of India is connected with the larger question of federation and consequential problems, and Government regret that they are not in a position to make any announcement on the points raised at this stage.

Mr. S. G. Jog: Is it a fact that a body known as the All-Party Berar Committee has submitted a case to the Government of India either through the Foreign and Political Department or to the Viceroy direct for forwarding it to the Round Table Conference?

Mr. C. W. Gwynne: I am afraid I am not in a position to answer that. I think the Honourable Member had better ask the Foreign Secretary on his return to this House.

Mr. S. G. Jog: Is it a fact that these papers were sent back to that Committee through a wrong channel which also happened to be a long channel?

Mr. C. W. Gwynne: I will make inquiries; but I think it would be better if the Honourable Member were to ask the Foreign Secretary on his return.

Sir Hari Singh Gour: May I ask the Honourable Member whether the question about the retrocession of Berar has been under the consideration either of His Majesty's Government or the Government of India?

Mr. C. W. Gwynne: I would like to have notice of that question.

Mr. S. G. Jog: Has the intended visit of His Exalted Highness anything to do with the question of Berar?

(No answer was given.)

ABOLITION OF THE SIMLA EXODUS.

†37. ***Mr. Gaya Prasad Singh:** Do Government propose to give up altogether the next "Simla exodus" as a measure of retrenchment?

†For answer to this question, *see* answer to starred question No. 19.

FLOGGING OF POLITICAL PRISONERS IN THE NORTH WEST FRONTIER PROVINCE.

38. ***Mr. Gaya Prasad Singh:** Will Government kindly state in how many cases the punishment of flogging was inflicted on political prisoners last year in the jails of the North-West Frontier Province, and for what offences? And how many of such prisoners belonged to the different communities?

Mr. C. W. Gwynne: Thirty prisoners were whipped during the year 1931. Of these ten were convicted prisoners and the remaining twenty were under trial. In one case the offence for which the punishment of whipping was inflicted was assault upon the Deputy Superintendent of the jail. In other cases the offences were creating disturbances in jail and attempting to incite other prisoners to do the same by instigating them to open and organised breaches of jail discipline, resulting in one case in open rioting. Five of the prisoners who were whipped were tried judicially and awarded this punishment. In case of the 20 under-trial prisoners whipping was carried out by order of the District Magistrate concerned. The prisoners whipped were all Muslims.

Dr. Ziauddin Ahmad: Will the Honourable Member explain the nature of the disturbances? Is it not a fact that whipping was administered simply for shouting "Alla-ho-Akbar"?

Mr. C. W. Gwynne: I must have notice; I am not the Foreign Secretary.

Dr. Ziauddin Ahmad: Is it not a fact that in the North West Frontier Province we have got an expert for whipping and that he is sent for whenever whipping is to be administered in any jail?

(No answer was given.)

Mr. Gaya Prasad Singh: My Honourable friend has referred to the disturbances, should he not also explain the nature of the disturbances? Does not this supplementary question arise out of the answer to the main question? Let the Foreign Secretary answer if he is here.

Mr. S. C. Mitra: Is it not a fact that questions are put to Government and not to any particular Secretary. The person who is responsible for answering the questions ought to answer the supplementary questions also.

The Honourable Sir George Rainy: The House will realise that the official who would ordinarily have answered the question has unfortunately been compelled to be absent from the House owing to illness. It is not always possible to provide a substitute who has the necessary information to answer supplementary questions.

Mr. K. Ahmed: Is it not derogatory to the principle that Government on that ground are not to reply to the questions that are put on the floor of the House? Is it not against the rules and Standing Orders of the House?

The Honourable Sir George Rainy: I am afraid influenza has no respect for the rules of the House.

Mr. K. Ahmed: The Government are in duty bound to answer the supplementary questions, otherwise the very object that Government have by calling the Assembly will be frustrated. It is unparliamentary not to answer questions on that ground. The Government are responsible, Sir.

The Honourable Sir George Rainy: Influenza is very unparliamentary.

Mr. K. Ahmed: Will it be below the dignity of the Honourable the Leader of the House to answer a question? Is it not a fact that even the Prime Minister of England answers questions in the House of Commons which are asked by Members of the Parliament? Do Government realise that?

(No answer was given.)

SURCHARGE ON COAL FREIGHT.

39. ***Mr. Gaya Prasad Singh:** (*a*) Will Government kindly state the rate of surcharge on coal freight, which has been imposed or is proposed to be imposed upon it?

(*b*) Do Government propose, in the interest of trade and industry of the country, not to impose such a surcharge?

Sir Alan Parsons: (*a*) I would refer the Honourable Member to a Press Communiqué issued on the 14th December, 1931, a copy of which is being placed on the table. Where applicable, the rate is 15 per cent.

(*b*) No. The surcharge has been in force from the 15th January, 1932.

COMMUNIQUE.

New Delhi, dated 14th December, 1931.

In view of the existing financial circumstances of the Indian railways, the Railway Board have found it necessary to explore all avenues whether for reducing expenditure or increasing revenue. The possibilities in the latter direction are somewhat limited at a time when the purchasing power of all classes is severely restricted, but there are a few commodities which might possibly stand a higher rate, and one of these is coal. The existing freights on coal were reduced both in 1926 and 1929 and are now very low when compared with those applicable to any other commodities.

2. Before coming to a decision on the question of enhancing freight rates on coal, the Railway Board advised the Indian Mining Federation and the Indian Mining Association, that they had under consideration a proposal to impose a surcharge of 15 per cent. on the present freight charges and invited them to discuss this proposal with the Board. This discussion was held on the 23rd November 1931. The Railway Board have received from various Chambers of Commerce and other commercial organisations representations bearing on the adverse effect which enhanced freight rates on coal would have on various interests. These representations, as also the views advanced by the Indian Mining Association and the Indian Mining Federation at the discussion which the Railway Board had with them, have been given the fullest consideration. While the Board are unable to modify their view that, under present conditions, the 15 per cent. surcharge should be imposed, they are issuing instructions that this surcharge which will be imposed from the 15th January, 1932, on all coal, coke and patent fuel, (both for the public and foreign Railways) booked from stations on the East Indian and Bengal Nagpur Railways and from the Pench Valley Collieries on the Great Indian Peninsula Railway, should not apply in the case of :—

(i) soft coke;

(ii) coal and coke consigned to Howrah or Calcutta, and

(*a*) exported thence by sea to any port, foreign or Indian;

(*b*) loaded for bunkering in sea-going vessels within the limits of the port of Calcutta.

In the case of (ii) above, the surcharge will be collected in the first instance, and a refund subsequently arranged under conditions which will be notified in due course by the East Indian and Bengal Nagpur Railway Administrations.

EMPLOYEES DISCHARGED FROM THE CUSTOMS DEPARTMENT, KARACHI.

40. ***Bhai Parma Nand:** (*a*) What is the total number of employees who have been discharged in the Customs Department, Karachi?

(*b*) How many of them were Hindus, Muslims, Christians and Jews?

(*c*) Was there any among them who was served with a notice, although he had died six months before that time?

(*d*) Is it a fact that Hindu clerks, some of whom were graduates, who had passed departmental examinations, and whose service extended over a period of more than five years were discharged while unqualified Muhammadan clerks who were matriculates having only six months' service at their back were retained?

(*e*) Is it a fact that certain employees whose period of service had been between twenty-five and thirty-five years and who could have been sent on pension were retained while clerks much junior to them in service were discharged?

The Honourable Sir George Schuster: (*a*) 33 including voluntary retirements.

(*b*) Hindus 16.
Muslims 11.
Christians 5.
Jews 1.

(*c*) No.

(*d*) No.

(*e*) No. Not in the same category.

Mr. Lalchand Navalrai: Does the Honourable Member know that there has been discontent amongst the clerks in the Customs office and that they have made representations that people who have got longer service should be done away with and those who have got smaller service should be retained? Is the Honourable Member aware of that?

The Honourable Sir George Schuster: I have not seen any representations on the lines to which the Honourable Member has referred, but if he informs me that they have been made, I am quite prepared to take that statement from him.

Mr. Lalchand Navalrai: The representations have been made to the Central Board of Revenue and I shall be thankful if the Honourable Member will send for them.

The Honourable Sir George Schuster: I shall take the earliest opportunity of inquiring into the matter.

PAY OF CLERKS, STOREKEEPERS AND CHECKERS OF THE INDIAN ARMY SERVICE CORPS.

41. ***Bhai Parma Nand:** (*a*) Will Government be pleased to state:

(i) whether it is a fact that the current progressive rates of pay of clerks, storekeepers and checkers of the I. A. S. C. are as given below:

Clerks—
Lower Division 50—4—90—3—150.
Upper Division 125—10—325—25/2—375.

Storekeepers—

Lower Division 50—2—60—4/2—100.

Upper Division 80—5/2—120—10/5—140.

Checkers—

40—2—60 (Post, non-pensionable).

(ii) whether all appointments are, in the first instance, normally made in the Lower Division; and

(iii) whether the present prescribed minimum educational qualifications for appointment as clerk, storekeeper or checker of the I. A. S. C. are the same, *e.g.*, matriculation examination of any University?

(*b*) If the reply to the above is in the affirmative, will the Government of India be pleased to state:

(i) whether the maximum pay laid down for clerks and storekeepers is attainable, and if so, how;

(ii) if the maximum pay is not attainable, what was the intention of Government in laying down the maximum rate of pay which was never attainable;

(iii) what rate of pay the seniormost clerk or the storekeeper (unenrolled) is in receipt of and what rate of pay they are likely to receive on completing 55 years age, stating their names;

(iv) if the maximum rates of pay as now laid down for clerks and storekeepers (both unenrolled) are not actually attainable, whether immediate steps will be taken to so revise the scales of pay and grades as to admit of the maximum pay being attained by at least a certain proportion of these establishments, and also to fulfill the commitments laid down by Government in respect of this class of personnel; and

(v) whether Government are prepared to take early action in the matter of raising the maximum rate of pay of checkers as well as to make their posts pensionable in accordance with the established policy of Government in regard to their employees?

Mr. G. M. Young: (*a*) (i), (ii) and (iii). Yes.

(*b*) (i). Yes, if a clerk is recruited direct to the Upper Division or is promoted to that Division before the age of 31 or a storekeeper before the age of 29.

(ii) and (iv). Do not arise.

(iii) Mr. D. D. Deputy, Upper Division clerk, draws pay at the rate of Rs. 265 a month. He will draw the same rate of pay on the 4th July, 1932, the date on which he will complete 55 years of age.

Mr. Rameshwar Nath, Upper Division storekeeper, draws pay at the rate of Rs. 130 a month. He is likely to be receiving Rs. 140 a month, the maximum pay of his grade, on the 15th April, 1934, the date on which he will complete 55 years of age.

(v) The rate of pay is considered adequate and Government have found no difficulty in obtaining candidates for these posts.

PAY OF CLERKS, STOREKEEPERS AND CHECKERS OF THE INDIAN ARMY SERVICE CORPS.

42. ***Bhai Parma Nand:** (*a*) Will Government be pleased to state:

(i) whether it is a fact that individual memorials and representations regarding the present scales of pay have from time to time been submitted since 1923 by clerks, storekeepers and checkers (unenrolled) of the I. A. S. C.;

(ii) whether a memorial from the All-India I. A. S. C. Civilian Association was submitted to the Military authorities in 1928 bringing out in detail the grievances of clerks, storekeepers and checkers of the Indian Army Service Corps; and

(iii) whether a further representation was submitted by the above Association early in 1931, in which it was shown by facts and figures how the above class of personnel had been adversely affected under the present scheme of pay?

(*b*) If reply to part (*a*) above be in the affirmative, will Government be pleased to state what action if any, has been taken since 1923 for the amelioration of the conditions of service of the above personnel?

(*c*) If no action has so far been taken, are the Government of India prepared to take immediate steps to redress the grievances of the above class of personnel?

Mr. G. M. Young: (*a*) (i), (ii) and (iii). Yes.

(*b*) About 20 clerks and storekeepers have been granted Viceroy's Commissions.

(*c*) Does not arise.

PAY OF CLERKS, STOREKEEPERS AND CHECKERS OF THE INDIAN ARMY SERVICE CORPS.

43. ***Bhai Parma Nand:** (*a*) Will the Government of India be pleased to state:

(i) whether it is the intention of Government to bring the clerical establishment of the I. A. S. C. on universal rate of pay with similar establishments of other Military Departments, *e.g.*, Military Engineering Services, Ordnance, Indian Corps of clerks, etc.; and

(ii) whether the All-India I. A. S. C. Civilian Association has submitted a representation to the Military authorities protesting against this proposal and requesting to be treated as a separate entity in respect of pay?

(*b*) If the reply to part (*a*) above be in the affirmative, will Government be pleased to state what action they propose to take in the matter?

Mr. G. M. Young: (*a*) (i) and (*b*). A proposal that future entrants to the clerical establishments of all branches of the Army should be on uniform rates of pay is now under the consideration of Government.

(*a*) (ii). A representation was made in connexion with a previous proposal which would have affected existing establishments.

PAY OF CLERKS, STOREKEEPERS AND CHECKERS OF THE INDIAN ARMY SERVICE CORPS.

44. ***Bhai Parma Nand:** (*a*) Will Government be pleased to state if it is being contemplated to grant compensation to such of the clerks and storekeepers (unenrolled) in the I. A. S. C., who have retired after September, 1923, but could not reach the maximum rate of pay through no fault of their own but owing to the revision of pay?

(*b*) Will Government be pleased to state what increases in pay and other concessions have been sanctioned in the case of British Officers, British Warrant and Non-Commissioned Officers, Indian Officers, Indian other ranks and followers of the I. A. S. C. after the Great War and how much extra expenditure has been incurred by Government on this account in respect of each class of the above personnel?

(*c*) Will Government be pleased to state why money could not be found for rectifying the defective grading of clerks and storekeepers of the I. A. S. C. who are also members of the Corps?

Mr. G. M. Young: (*a*) It is open to clerks and storekeepers adversely affected by the revision of pay to submit petitions through the proper channel. These when received will be considered on their merits.

(*b*) I lay on the table statements giving the information desired in the first portion of the question. It is not now possible to state the total extra expenditure incurred by the revision of the rates of pay.

(*c*) Because Government consider that their rates of pay are adequate for the duties they perform.

Monthly rates of pay of Departmental Officers, Warrant and Non-Commissioned Officers of the Indian Army Service Corps.

—	1919.	Before 1927.	1927.	
	Rs.	Rs.		Rs.
1. Commissary and Major after 8 years' commissioned service and 2 years' service as Major.	..	..	Unmarried . .	970
			Married . . .	1,100
2. Commissary and Major after 8 years' service as such.	750			
Commissary and Major after 4 years' service as such.	700	850	Unmarried . .	825
			Married . .	950
Commissary and Major .	650			
3. Deputy Commissary and Captain after 8 years' service as such.	650			
Deputy Commissary and Captain after 4 years' service as such.	600	730	Unmarried . .	700
			Married . .	825
Deputy Commissary and Captain.	550			

Monthly rates of pay of Departmental Officers, Warrant and Non-Commissioned Officers of the Indian Army Service Corps—contd.

—	1919.	Before 1927.	1927.	
	Rs.	Rs.		Rs.
4. Assistant Commissary and Lieutenant after 8 years' service as such.	530			
Assistant Commissary and Lieutenant after 4 years' service as such.	480	590	Unmarried . .	635
			Married . .	715
Assistant Commissary and Lieutenant.	430			
5. Conductor . . .	350	390		420
6. Sub-Conductor . .	300	330		380
7. Staff Sergeant . . .	220	250		280
8. Sergeant. . . .	170	190		220

Monthly rates of pay of Indian Officers and other Ranks of Animal Transport Units.

—	1923.	1924.	1925.	1927.	1931.
	Rs.	Rs.	Rs.	Rs.	Rs.
1. Risaldar Major . .	..	..	160	160	180 *plus* 40 as personal allowance.
2. Risaldar . .	108	104—8—128	104—8—128	104—8—128	115—10—145
3. Jemadar . . .	54	60—4—80	60—4—80	60—4—80	70—5—90
4. Troop and Quartermaster Daffadar.	23	23	23	23	24
5. Naik	17	17	18	19	21
6. Lance Naik . . .	12	12	13	14	15-8
7. Driver . . .	11	11	12	13	14-8

CONTRIBUTION BY BRITAIN TO THE COST OF THE BRITISH ARMY IN INDIA.

45. ***Mr. Lalchand Navalrai:** (*a*) Has Government's attention been drawn to the speech of Miss Rathbone, M.P., made in the British Parliament on or about the 2nd December, 1931, in which she suggested that at least a part of the cost of Indian Army might rightly be contributed by Britain or the Empire?

(*b*) What do Government propose to do in the matter?

(*c*) Will Government be pleased to make a full statement of their future policy regarding the retention of the British Army in India and the defrayal of the cost by the British and the Indian Exchequer?

Mr. G. M. Young: (*a*) Government have seen a copy of the speech.

(*b*) The speaker did not suggest that the question should be considered by the Government of India, but by the Committees, which have since been appointed by His Majesty's Government.

(*c*) The Government of India are not in a position at present to make any such statement as is suggested by the Honourable Member.

Mr. Lalchand Navalrai: Does the Honourable Member know if that Committee has gone into that question?

Mr. G. M. Young: The Committees have not yet reached India.

Diwan Bahadur A. Ramaswami Mudaliar: Is not the whole policy underlying this question seized by the Round Table Conference, the Defence Committee of the Round Table Conference in particular?

Mr. G. M. Young: Yes, Sir. The speech in question refers to committees appointed by His Majesty's Government, in connection with the Round Table Conference.

Mr. B. R. Puri: Are we debarred from seeking information simply on the ground that the matter is before the Round Table Conference?

REDUCTION IN BRITISH AND INDIAN REGIMENTS IN INDIA.

46. ***Mr. Lalchand Navalrai:** (*a*) Will Government be pleased to state whether they have reduced the number of the British Indian regiments under the retrenchment system; if so, by how much?

(*b*) Have Government curtailed the number of officers and soldiers, respectively, in the British Indian regiments solely manned and officered by Europeans since the retrenchment? If so, how much?

(*c*) If the answer to parts (*a*) and (*b*) be in the negative, do Government propose to reduce the number of regiments and curtail the number of the British and European officers and soldiers in the British Army; if so, to what extent?

Mr. G. M. Young: (*a*) If the Honourable Member refers to British units on the Indian establishment, the answer is in the negative.

(*b*) A reduction has been made of 855 British soldiers in the Infantry and about 450 in the Artillery.

(*c*) There is no proposal at present to reduce the number of British units. I have stated the reduction in men in my answer to part (*b*).

Mr. Lalchand Navalrai: May I take it that this question also is before the Round Table Conference Committee?

Mr. C. S. Ranga Iyer: Then why not suspend this Assembly until those Committees have reported?

RETRENCHMENT OF ONE MEMBER OF THE EXECUTIVE COUNCIL.

47. ***Mr. Lalchand Navalrai:** (*a*) Will Government be pleased to state if there is any proposal for the curtailment in the number of Executive Councillors in the Government of India in the retrenchment scheme which is in progress?

(*b*) Has the question of combining the portfolios of Industries and Labour and Land and Education under one member been considered?

(*c*) If the reply to parts (*a*) and (*b*) be in the negative, will Government be pleased to state their full reasons showing their difficulties in carrying on the Government with one member less?

The Honourable Sir James Crerar: (*a*) and (*b*). No.

(*c*) The Honourable Member will, I am sure, not expect me, in reply to a question, to discuss at length the constitution of the Executive Council of the Governor General. I can merely say that the suggestion is not regarded as practicable.

Mr. Lalchand Navalrai: Does the Honourable Member know that the Madras Government have reduced one Member of their Executive Council?

The Honourable Sir James Crerar: If the Honourable Member means to suggest that the Madras Government have permanently reduced the size of the Governor's Executive Council, the Honourable Member is misinformed

NUMBER OF SECRETARIES, DEPUTY SECRETARIES, ETC., IN THE GOVERNMENT OF INDIA DEPARTMENTS.

48. ***Mr. Lalchand Navalrai:** (*a*) Will Government be pleased to state how many Secretaries, Joint Secretaries, Deputy Secretaries and Assistant Secretaries there are in all in the various departments of the Government of India Secretariat and how many of them are held by Europeans, Anglo-Indians, Indian Christians and Indians, respectively?

(*b*) Do Government propose to curtail their number? If so, by how many and when?

The Honourable Sir James Crerar: (*a*) A statement containing the information is laid on the table.

(*b*) In the Home, Commerce, Foreign and Political and the Military Finance Departments the number of posts of Assistant Secretary is to be reduced by one each. In the Reforms Office one post of Deputy Secretary has been retrenched. In the Legislative Assembly Department, the post of Deputy Secretary is to be held in abeyance when it falls vacant. The question of curtailing the number of officers in the Education, Health and Lands, and Finance Departments is still under consideration.

Statement showing the number of Europeans and Indians holding posts of Secretary, Joint Secretary, Deputy Secretary and Assistant Secretary in the Departments of the Government of India.

Appointments on 1st January 1932.		Number held by			
			Indians.		
Name.	No.	Europeans.	Anglo-Indians.	Indian Christians.	Others.
Secretary	11	10	..	..	1
Joint Secretary	8	7	..	..	1
Deputy Secretary	15	11	..	..	4
Assistant Secretary	26	6	6	1	13

NOTE.—In addition to the above, there are certain other posts which rank as Secretary, Deputy Secretaries, and Assistant Secretaries but are not properly such and have therefore not been included in the above statement.

RETRENCHMENT OF OFFICERS OF THE CENTRAL BOARD OF REVENUE.

49. *Mr. **Lalchand Navalrai:** What curtailment in the number of the officers working on the Board of Revenue have Government made or propose to make?

The Honourable Sir George Schuster: I presume that the Honourable Member means to refer to gazetted officers. Out of these posts of gazetted officers, the Government of India have abolished the post of Personal Assistant to Members, and in place of a Secretary to the Board of the standing of a Deputy Secretary to Government have appointed a Secretary to the Board of the standing of an Assistant Secretary to Government.

RETRENCHMENT OF HIGH OFFICIALS IN THE RAILWAY BOARD AND STATE RAILWAYS.

50. *Mr. **Lalchand Navalrai:** (*a*) What curtailment in the number of the Directors of the Railway Board and in the number of higher officers of the Railway Board have Government made or propose to make?

(*b*) What curtailment in the number of the higher officers working under the Agents and the Divisional Superintendents of the State Railways have Government made or propose to make?

Sir Alan Parsons: (*a*) It is proposed to hold in abeyance the posts of Member, Traffic, Member, Engineering, Deputy Secretary, and Assistant Director of Finance; to combine the posts of Director, Civil Engineering, Director, Mechanical Engineering and Chief Controller of Standardisation, and to create as a temporary measure an additional post of Deputy Director, Traffic.

(*b*) A statement is laid on the table.

Railways.	Number of Superior posts proposed to be abolished or held in abeyance from 1st December 1931.			Remarks.
	Abolished. (*a*)	Held in abeyance. (*b*)	Total. (*c*)	
Burma	17	2	19	
Eastern Bengal . . .	18	7	25	
East Indian . . .	42	11	53	
Great Indian Peninsula .	32	7	39	
North Western . . .	40	12	52	

Mr. Lalchand Navalrai: I do not follow the Honourable Member. Are any posts of Directors of the Railway Board also curtailed?

Sir Alan Parsons: The position is this: we are going to have one Director instead of two on the engineering side, who will in addition to his own duties carry out the duties of Controller of Standardisation.

Mr. Lalchand Navalrai: Is it actually curtailing one post of Director or is the post merely kept in abeyance. This word was used in some other question by the Honourable Member, and that was that two officers were on leave in England and their posts were being kept in abeyance.

Sir Alan Parsons: It is not proposed for the present to fill these appointments.

Mr. Lalchand Navalrai: That would mean until they return.

Sir Alan Parsons: No.

DIVISIONAL ORGANISATION ON THE NORTH WESTERN RAILWAY.

51. *Mr. **Lalchand Navalrai:** (*a*) Will Government be pleased to state if they are still in favour of the divisional organization on the North Western Railway even after the expression of opinion of the Railway Retrenchment Sub-Committee (*vide* page 341 of their report)?

(*b*) If so, will Government be pleased to make a full statement on this point justifying the Divisional system being financially preferable?

Sir Alan Parsons: (*a*) Yes.

(*b*) A Memorandum on the subject is in the Library of the House.

RETRENCHMENT OF RAILWAY OFFICERS IN DIVISIONS OR AT HEADQUARTERS.

52. *Mr. **Lalchand Navalrai:** (*a*) Do Government propose to curtail the number of officers working on the Divisional system or at the Headquarters in view of the opinion of the Railway Retrenchment Sub-Committee to the effect that there is considerable scope for reduction and that an organization like the one on the North Western Railway, where there are 12 officers in the Divisions and 5 at the Headquarters, is unnecessarily extravagant and quite unjustified?

(*b*) If not, will Government please state the full reasons?

Sir Alan Parsons: (*a*) and (*b*). A number of posts in the Superior Establishment of the North Western Railway have, as a measure of economy, already been brought under reduction, and the possibility of making further reductions is under consideration.

ABOLITION OF THE STAFF COLLEGE AT DEHRA DUN.

53. *Mr. **Lalchand Navalrai:** (*a*) Has the attention of Government been drawn to the supplementary note by Dr. Ziauddin Ahmad—a member of the Railway Retrenchment Sub-Committee—where he has suggested "that the Staff College at Dehra Dun be abolished, as it is an expensive luxury"?

(*b*) What effect have Government given to that suggestion?

(*c*) Have Government any intention to abolish the college or at least to save money by not sending experienced and old officers for further training into that college?

(*d*) If not, how do Government justify spending large sums in these days of deficit budgets?

Sir Alan Parsons: (*a*) Yes.

(*b*) to (*d*). Government have had under consideration for some time the question of reducing the scale of expenditure in providing courses of instruction to officers. They have decided to close the Railway Staff College at Dehra Dun about next March and to arrange for the necessary course of instructions for officers, particularly probationers, to be given at Calcutta. There will be a substantial saving by the new arrangement.

PRESSES ASKED TO FURNISH SECURITIES.

54. ***Mr. Lalchand Navalrai:** (*a*) Will Government be pleased to state how many presses in India have been asked to furnish securities under the new Press Act?

(*b*) What were the reasons for demanding the security in each case?

(*c*) Were these presses given any warning before they were asked to be bound down?

(*d*) Have any proprietors of presses been asked to furnish security after the new Press Act has been passed?

(*e*) If so, will Government be pleased to furnish a list of their names, and those of their presses with reasons for binding them down?

The Honourable Sir James Crerar: The information is being collected from Local Governments and will be supplied to the Honourable Member on receipt.

Mr. Gaya Prasad Singh: Will a copy be laid on the table of the House for the information of other Members also?

The Honourable Sir James Crerar: Yes, Sir.

RESOLUTIONS ON THE DRAFT BILL TO ESTABLISH A MEDICAL COUNCIL IN INDIA.

55. ***Mr. Lalchand Navalrai:** (*a*) Will Government be pleased to state if they have received a copy of the resolutions unanimously adopted at the meeting of the medical profession of Bombay on the 27th November, 1931, under the presidency of Dr. G. V. Deshmukh, M.D., regarding the draft Bill to establish a medical council for India?

(*b*) Have Government considered the suggestions made by resolutions Nos. 1, 2 and 3?

(*c*) If so, what changes or modifications do Government propose to make in the draft Bill? If not, what are the reasons for it?

(*d*) Will Government be pleased to state when the proposed Bill to establish a medical council for India is likely to be introduced in the Legislative Assembly?

Sir Frank Noyce: (*a*) Yes.

(*b*) and (*c*). The suggestions will be considered when the draft Bill is taken into final consideration.

(*d*) No decision has yet been taken.

DELAY IN THE DELIVERY OF MAIL AT KIAMARI, KARACHI.

56. ***Mr. Lalchand Navalrai:** (*a*) Is it a fact that the residents of Kiamari (Karachi) made a representation to the Director-General of Posts and Telegraphs, complaining of the Quetta and Bombay mail posts being delivered to them next day at about 10 A.M. instead of the same evening as before?

(*b*) Is it a fact that they complained of the inward English mail being delivered to them at 10 A.M. instead of 7 A.M. or earlier as before?

(*c*) Is it a fact that they were told by the authorities that the question of the Bombay and Quetta mail delivery was receiving their attention? If so, have the authorities made any arrangement to suit their convenience?

(*d*) Is it a fact that the authorities informed them that the English mail delivery could not be effected at 7 A.M. through the postmen owing to financial difficulties?

(*e*) Is it a fact that the special delivery of English mail is being made at 7 A.M. in Karachi?

(*f*) Do Government propose to revert to the former times in Kiamari? If not, why not?

Mr. T. Ryan: (*a*) and (*b*). Yes.

(*c*) Yes. Arrangements have been made for the delivery of Bombay and Quetta mails at Kiamari on the evening of their receipt.

(*d*) Yes. Special delivery of inward English mail at Kiamari was discontinued in order to avoid the additional expenditure involved in effecting such delivery.

(*e*) No. The special delivery of the English mail at Karachi has also been discontinued.

(*f*) Not in respect of inward English mails.

SALARY OF THE OFFICER IN CHARGE OF THE MOHENJODARO EXCAVATIONS AND RETRENCHMENT OF HIS STAFF.

57. ***Mr. Lalchand Navalrai:** (*a*) Will Government be pleased to state whether one Mr. Mackay is now in charge of Mohenjodaro excavations, what is his salary and what allowances does he get?

(*b*) Is it a fact that the excavations at Mohenjodaro are not in operation and, if so, why is such a highly paid officer kept there?

(*c*) Will Government be pleased to state what work actually has this officer been doing there?

(*d*) Is it a fact that almost all the staff at Mohenjodaro has been retrenched?

(*e*) Is it a fact that there is only one Sindhi clerk on the establishment at Mohenjodaro and is he also being removed?

(*f*) Do Government propose for the convenience of the Sindh people, to retain the only Sindhi clerk on the spot?

Sir Frank Noyce: (*a*) Yes; Mr. Mackay's pay is Rs. 1,100 per mensem *plus* £30 Overseas pay; he also draws a halting allowance of Rs. 7-8-0 a day whilst at Mohenjodaro.

(*b*) The excavation operations at Mohenjodaro have been suspended; Mr. Mackay's services have, however, been retained till the 30th November, 1932, in order to enable him to write up an account of the recent excavations.

(*c*) The excavation of archæological remains.

(*d*) Yes.

(*e*) and (*f*). There is one Sindhi Marksman temporarily employed at Mohenjodaro. The arrangements to be made at Mohenjodaro in view of the suspension of the excavation operations there are at present under consideration.

Mr. Gaya Prasad Singh: What is the present pay of Mr. Mackay?

Sir Frank Noyce: Rs. 1,100 a month *plus* £30 overseas pay.

Mr. Gaya Prasad Singh: Has he agreed to serve on lesser pay?

Sir Frank Noyce: I have said that his services are being retained till November, 1932.

Mr. Gaya Prasad Singh: Is it not a fact that the Standing Finance Committee only recently decided that there should be only one keeper at Mohenjodaro in charge of the collections?

Sir Frank Noyce: That is so. We were awaiting the decision of the Standing Finance Committee when the reply to this question was drafted.

Mr. B. R. Puri: What is Mohenjodaro, please? (Laughter.)

Sir Frank Noyce: It is a place in Sindh at which valuable evidences of an ancient civilisation have been discovered.

Mr. B. R. Puri: Thank you. (Laughter.)

REMOVAL OF ANTIQUITIES FROM MOHENJODARO TO THE DELHI MUSEUM.

58. ***Mr. Lalchand Navalrai:** (*a*) Will Government be pleased to state if it is a fact that the museum at Mohenjodaro is being shifted from there?

(*b*) Is it a fact that the best antiquities are being removed to be kept in the Delhi Museum?

(*c*) Have Government considered the desirability of keeping all the finds together with the jewellery on the spot with a view to enable people to inspect them and study the situation properly?

(*d*) Is it a fact that Mr. Mackay has refused to show the jewellery to many respectable Indian gentlemen and has exhibited the same to European gentlemen?

(*e*) Will Government be pleased to state if he had any justification to make that distinction?

Sir Frank Noyce: (*a*) No, but, in view of the limited accommodation available in the existing museum and the impossibility, in present financial conditions, of providing funds for its expansion, a proposal for the temporary loan of some of the antiquities found at Mohenjodaro to other museums in India is under consideration.

(*b*) No.

(*c*) Yes, the Government fully recognise the importance of retaining at Mohenjodaro a representative collection of objects of each distinctive type found there.

(*d*) and (*e*). Mr. Mackay was unfortunately unable to show the jewellery to some visitors as the key of the safe in which it was kept for safe custody was in the possession of the Excavation Assistant who had taken it away with him during his Christmas holidays. Action has been taken to prevent this happening again. There is no ground for the suggestion that there has been differential treatment between Indians and Europeans.

GOLD IN THE CURRENCY RESERVES IN INDIA AND ENGLAND.

59. ***Dr. Ziauddin Ahmad:** (*a*) What was the quantity of gold (in weight and not in value) (1) in the currency reserve kept in India, (2) in the currency reserve kept in England on the following dates:

(i) 1st January, 1931;

(ii) 1st November, 1931;

(iii) 31st December, 1931; and

(iv) 25th January, 1932?

(*b*) How much distress gold has the Indian Currency Office received in the year 1931?

(*c*) How much gold did the Government of India sell or transfer from the Indian Currency Reserve?

The Honourable Sir George Schuster: (*a*) The total amount of gold held in the Reserve of the Government of India (namely in the Paper Currency Reserve and in the Gold Standard Reserve) on the 31st December, 1930, was 15,197,000 tolas in India and 1,351,000 tolas in London. On the other dates mentioned it was about 19,524,000 tolas in India and 1,351,000 tolas in England. There has been an alteration in the distribution of this holding as between the Gold Standard Reserve and the Paper Currency Reserve and I lay a statement on the table showing what that distribution was on the dates mentioned.

(*b*) I do not understand the term 'distress' gold. The total amount of gold received from the public into the Paper Currency Reserve in the year 1931 was about 4,313,000 tolas.

(*c*) The Government of India did not sell any gold either from the Paper Currency Reserve or the Gold Standard Reserve. The total amount transferred from the Paper Currency Reserve to the Gold Standard Reserve is approximately 17,374,000 tolas.

Statement showing the distribution of the Gold Reserves of the Government of India as between the Gold Standard Reserve and the Paper Currency Reserve.

(In tolas.)

—	Gold Standard Reserve.	Paper Currency Reserve.	Total.
31st December, 1930	1,603,000	14,945,000	16,548,000
31st October, 1931	18,802,000	2,073,000	20,875,000
31st December, 1931	18,726,000	2,149,000	20,875,000
25th January, 1932	Not available.		

Mr. S. G. Jog: Do not Government think that the drain of gold will hinder the progress of the establishment of a Reserve Bank in future?

The Honourable Sir George Schuster: I suggest, Sir, that my Honourable friend's question, if I have correctly understood it, does not arise out of the question which I have answered. The question to which I have given an answer refers to the amount of gold held by the Government. The answer which I have given shows that not only has there been no drain of gold from the Government's gold reserves, but that the Government's gold reserves in the course of last year have increased by something like 4,313,000 tolas. Therefore the question of a drain of gold does not arise.

ALLEGATIONS REGARDING THE QUALITY OF FOOD SUPPLIED TO PRISONERS.

60. ***Dr. Ziauddin Ahmad:** (*a*) Has the attention of Government been drawn to the statement of Khan Ghulam Mohammed Khan published in *Rehbar* of Rawalpindi, dated the 30th November, 1931?

(*b*) Is the statement about the quality of food supplied to the prisoners correct?

(*c*) Have Government instituted any enquiry about it?

(*d*) Is the statement about Arbab Md. Aslam Khan correct? If not, what are the facts?

Mr. C. W. Gwynne: A report has been called for and the information will be given when received.

CANAL WATER-RATES IN THE NORTH-WEST FRONTIER PROVINCE.

61. ***Dr. Ziauddin Ahmad:** (*a*) What is the canal rate for watering an acre of land in the North-West Frontier Province?

(*b*) When was the rate fixed?

(*c*) What was the value of produce per acre in Indian money at the time the rate was fixed? What is the value now?

(*d*) Have Government reduced the canal rates in the year 1931?

(*e*) What exemptions have Government given in canal dues? If not, why not?

The Honourable Sir Joseph Bhore: The information is being collected and will be furnished to the Honourable Member in due course.

ALLEGATIONS REGARDING POLITICAL PRISONERS IN THE NORTH-WEST FRONTIER PROVINCE.

62. ***Dr. Ziauddin Ahmad:** (*a*) Has the attention of Government been drawn to a letter addressed to the Chief Commissioner of the North-West Frontier Province as published in the *Eastern Times*, dated the 13th December, 1931, under the heading "Political prisoners' grievances"?

(*b*) Have Government made enquiries about diet and whipping mentioned in the letter?

(*c*) Are the allegations substantially correct?

Mr. C. W. Gwynne: (*a*) Yes.

(*b*) The allegations made in the letter are receiving the Chief Commissioner's consideration.

(*c*) The allegations are not substantially correct.

Dr. Ziauddin Ahmad: With reference to the reply to part (*b*) of the question, will Government be pleased to ask the Chief Commissioner in his consideration of the matter to mention the specific points about which the allegations are substantially incorrect?

Mr. C. W. Gwynne: I think that can be done.

ADMINISTRATION OF STATE RAILWAYS.

63. ***Dr. Ziauddin Ahmad:** Will Government be pleased to state who is primarily responsible for the administration of State Railways—Agents or the Railway Board?

Sir Alan Parsons: I am not sure I understand what the Honourable Member means by "primarily responsible". Agents are responsible to the Railway Board for the administration of the systems in their charge in the exercise of the powers which have been delegated to them, and the Railway Board are responsible to the Government of India and the Secretary of State for the general administration of the State-managed Railways.

Dr. Ziauddin Ahmad: We find that whenever anything goes wrong the Agents always complain that the Railway Board did not permit them to do it, and the Railway Board shove the responsibility on to the Agents.

POWERS OF AGENTS AND DIVISIONAL SUPERINTENDENTS ON RAILWAYS.

64. ***Dr. Ziauddin Ahmad:** (*a*) Have Government defined the division of powers between Agents and Divisional Superintendents? Will Government be pleased to lay necessary papers on the table?

(*b*) Is there no duplication of work?

Sir Alan Parsons: (*a*) The Governor General in Council has defined the powers which may be exercised by Agents of State-managed Railways and has empowered Agents to delegate their powers in whole, or in part, to authorities subordinate to them. A pamphlet in which are defined the powers which have been delegated by the Agent, North Western Railway, to his Divisional Superintendents has been placed in the Library. Similar powers have been delegated by the Agent, East Indian Railway, to his Divisional Superintendents.

(*b*) The organisation is designed to minimise duplication of work. The position is examined from time to time and steps are taken to eradicate any avoidable duplication of work which may come to notice.

Dr. Ziauddin Ahmad: Are Government considering the question of avoiding duplication of work and effecting economy in the running lines in view of the fact that the Railway Retrenchment Committee never examined the running lines?

Sir Alan Parsons: We are certainly considering the avoidance of any duplication of work of which we have knowledge.

Dr. Ziauddin Ahmad: Are Government considering the question of avoiding duplication of work between the Agents and the Divisional Superintendents in view of the fact that the Railway Retrenchment Committee never examined this problem?

Sir Alan Parsons: I am afraid I must ask for notice. I am not sure that we have any particular and special investigation of that character in hand.

Dr. Ziauddin Ahmad: The Retrenchment Sub-Committee clearly understood that the Government were making immediate inquiries on this point, and I should like to know whether inquiries are being made.

12 NOON.

Sir Alan Parsons: I am afraid I must ask for notice. It is not in my memory at the moment.

UNSTARRED QUESTIONS AND ANSWERS.

TEACHERS OF INDIAN SCHOOLS MAINTAINED BY THE EAST INDIAN RAILWAY.

1. **Mr. Gaya Prasad Singh:** (*a*) Are Government aware of a statement made by Mr. A. A. L. Parsons on behalf of the Government of India, in the Legislative Assembly on February 1st, 1928, in reply to starred question No. 110 put by Pandit Hirday Nath Kunzru, that teachers of the Indian schools maintained by the East Indian Railway Administration are Government servants?

(*b*) Will Government please state the number of such schools in these provinces, and the amount of grant-in-aid, if any, paid to each of them?

(*c*) Are these Institutions treated as Government schools or private Committee-managed schools? If the former, do the institutions belong to the Central or Provincial Government? Are they run as proper Government institutions? If not, why not?

(*d*) If they are treated as private Committee-managed Institutions, are these Committees registered bodies?

Sir Alan Parsons: With your permission, Sir, I propose to reply to this and questions numbers 2, 3 and 5 together.

Certain information has been called for from the Agent, East Indian Railway, and the Honourable Member will be communicated with on its receipt.

MANAGING COMMITTEE OF THE EAST INDIAN RAILWAY ANGLO-VERNACULAR HIGH SCHOOL AT TUNDLA.

†2. **Mr. Gaya Prasad Singh:** (*a*) What is the constitution of the Managing Committee of the East Indian Railway A. V. High School at Tundla? Who is the Manager of the school and what are his powers and duties?

(*b*) Who is the President, and what are his powers and duties?

(*c*) What are the powers of the Committee and how are they derived?

†For answer to this question, *see* answer to question No. 1.

(*d*) Is it a fact that the Divisional Superintendent of the East Indian Railway is the *ex-officio* president of the Committee at Tundla, and another officer of the same Railway appointed by him, the Manager of the school, and he and the Manager combined appoint other members of the school, and he and the Manager combined appoint other members of the present Committee? Who and what are the other members of the present Committee?

AUTHORITY OVER TEACHERS OF THE EAST INDIAN RAILWAY SCHOOL AT TUNDLA.

†3. **Mr. Gaya Prasad Singh:** (*a*) Who is authorised to appoint, punish and dismiss the teachers of the Railway School at Tundla?

(*b*) Do the teachers enter into a written contract with the Committee; if so, is the agreement the same as is prescribed for aided schools in these provinces? If not, why not? Have Government authorised the Committee to enter into those agreements? If so, when and under what law?

(*c*) Do the teachers, after entering into this agreement, retain the status and privileges of Government servants? If so, do they possess the right of appeal against adverse decisions of the Committee affecting them like other Government servants, and, if so, to whom and under what rules?

GRANTS-IN-AID ADMISSIBLE TO GOVERNMENT SCHOOLS.

4. **Mr. Gaya Prasad Singh:** Will Government be pleased to state if grants-in-aid are admissible to Government schools?

Sir Alan Parsons: No grant-in-aid is admissible to Government schools.

STATUS AS GOVERNMENT SERVANTS OF TEACHERS IN THE RAILWAY SCHOOL AT TUNDLA.

†5. **Mr. Gaya Prasad Singh:** Are the teachers in the Railway School at Tundla on deputation from the Government, and are their services treated as lent services? Can they be punished or removed without Government's permission? Will such permission be required from the Local or the Central Government?

ALLEGATIONS IN REGARD TO RAILWAY APPRENTICES IN JAMALPORE.

6. **Dr. Ziauddin Ahmad:** (*a*) Has the attention of Government been drawn to the article published in the *Eastern Times*, Lahore, dated the 4th November, 1931, on special class apprentices in Jamalpore, East Indian Railway?

(*b*) Are the facts stated in the said article substantially correct?

(*c*) What action do Government propose to take to meet the serious allegations?

†For answer to this question, *see* answer to question No. 1.

Sir Alan Parsons: (*a*) and (*b*). Yes.

(*c*) The recruitment in each of the years referred to was made in accordance with the rules of recruitment of special class apprentices, which provides that one-third of the vacancies in each year will be reserved by the Government of India to redress, so far as may be necessary, marked communal inequalities.

PAY OF SECOND DIVISION CLERKS IN THE GOVERNMENT OF INDIA SECRETARIAT.

7. **Mr. Uppi Saheb Bahadur:** (*a*) Are Government aware that the time-scale of pay (*viz.*, Rs. 80—100—8—300—350) fixed for the Second Division of the clerical establishment in the Government of India Secretariat is illusory, inasmuch as a clerk who starts service in that Division can scarcely reach the maximum of the scale in the ordinary course by getting annual increments?

(*b*) Is it a fact that the clerks who have been confirmed in their appointments after the introduction of the leave reserve have not been allowed to draw increments in respect of their continuous temporary service prior to their confirmation as was the case before the system of the leave reserve was introduced? Are Government aware that this has rendered the chances for reaching the maximum of the scale of pay fixed for the Second Division all the more remote and created a general discontent among the clerks who entered service in the Secretariat or Attached Offices long before the introduction of the leave reserve but were confirmed after its introduction?

(*c*) If the answer to part (*b*) be in the affirmative, will Government kindly state how many clerks have thus been adversely affected and do Government propose to consider the advisability of such hard cases being exempted from the operation of the general cut in salaries?

The Honourable Sir James Crerar: I would refer the Honourable Member to the reply given on the 5th November, 1931, to Mr. Muhammad Muazzam Sahib Bahadur's starred question No. 1201.

PAUCITY OF MUSLIMS IN THE PUNJAB INCOME-TAX DEPARTMENT.

8. **Mr. Uppi Saheb Bahadur:** (*a*) Has the attention of Government been drawn to a note in the *Eastern Times*, dated Thursday, the 12th November, 1931, regarding the paucity of Muslims in the Punjab Income-tax Department?

(*b*) Will Government kindly lay on the table a comparative statement showing (i) the total number of permanent employees in the Punjab and the Madras Presidency Income-tax Department in each category separately, *viz.*, Assistant Commissioners, Income-tax Officers, Assistant Income-tax Officers, Inspectors, Head Clerks, Head Assistants, clerks, etc., and (ii) the total number of permanent Muslim employees in each of the above categories separately and their percentage to the total strength in each category?

The Honourable Sir George Schuster: (*a*) The Government have seen the note referred to.

(*b*) A statement is laid on the table.

Statement showing the total number of permanent employees, the number of Muslims and their percentage to the total strength in each category in the Income-tax Departments of Madras and the Punjab.

	Total number of permanent employees.	Total number of Muslims.	Percentage of Muslims to the total in each category.
MADRAS.			
1. Assistant Commissioners	4	..	..
2. Income-tax Officers	47	5	10·6
3. Assistant Income-tax Officers	37	2	8·4
4. Head Clerks	43	1	2·3
5. Clerks (including typists, Personal clerks and Stenographers).	226	12	5·3
PUNJAB.			
1. Assistant Commissioners	3	..	..
2. Income-tax Officers	30	6	20·0
3. Assistant Income-tax Officers	8	4	50·0
4. Inspector-Accountants	34	11	32·0
5. Head Clerks, Head Assistants, etc.	49	12	24·5
6. Assistant Clerks	112	36	32·1

APPOINTMENT OF MUSLIMS IN THE PUNJAB AND MADRAS INCOME-TAX DEPARTMENTS.

9. **Mr. Uppi Saheb Bahadur:** (*a*) Are Government creating some additional posts in the Punjab and the Madras Presidency Income-tax Department in connection with the scheme of increased taxation?

(*b*) If so, will Government kindly state the number of posts they propose to create in each of the categories mentioned in the foregoing question?

(*c*) Do Government propose to appoint a sufficient number of Muslims in the posts to be so created in each category so as to adjust the existing communal inequality?

The Honourable Sir George Schuster: (*a*) Yes.

(*b*) A statement containing the information asked for by the Honourable Member is placed on the table. It does not include posts created for a few months only to deal with surcharge work in the current financial year.

(c) The appointments are made by the Commissioners of Income-tax concerned, who will no doubt pay due regard to the standing instructions, that so far as is compatible with efficiency, an endeavour should be made to secure equal representation in the public service for different communities.

Posts newly sanctioned in order to cope with the extra work created by the lowering of the minimum taxable limit.

Province.	Assistant Commissioners of Income-tax.	Income-tax Officers.	Assistant Income-tax Officers.	Inspectors.	Head clerks.	Head Assistants.	Clerks.
Madras .	*Nil*	*Nil*	4	35 (Investing Officers).	3	..	65
Punjab .	*Nil*	*Nil*	..	25	..	..	88

APPOINTMENT OF MUSLIM MEDICAL OFFICERS IN AJMER-MERWARA.

10. **Mr. M. Maswood Ahmad:** (*a*) Is it a fact that the gradation list of the Medical Officers in Ajmer-Merwara showing 35 officers, contains the name of only one Mussalman who is a junior Sub-Assistant Surgeon, Syed Khurshid Husain, on a pay of Rs. 90 per mensem, who too is serving outside the province on foreign service?

(*b*) If the reply to part (*a*) be in the affirmative, is it a fact that for all practical purposes there is no representation of the Muslims among the medical officers in the whole province?

(*c*) Is it a fact that the said gradation list of Medical officers shows 29 posts of Sub-Assistant Surgeons, out of which 28 are held by Hindus, while one is lying vacant?

(*d*) Do Government propose to take necessary steps to ensure the appointment of qualified Muslim medical officers when the present vacancy is filled up or whenever any new vacancy occurs, in order to allow the Muslims to have their due proportionate representation in the said department?

(*e*) Is it a fact that some more vacancies are sure to occur in the said Medical Department on the retirement of Rai Bahadur Dr. Nand Lal, L.M.S. (Punjab), Assistant Surgeon, Victoria Hospital, Ajmer, in the near future?

(*f*) If the answer to part (*e*) be in the affirmative, is it a fact that applications of qualified Muslim doctors have been kept neglected on the record?

(*g*) Are Government prepared to consider the claims of qualified Muslim candidates for present and future vacancies and thus redress a long standing grievance?

Sir Evelyn Howell: (*a*) No. There is no separate gradation list of Sub-Assistant Surgeons in Ajmer-Merwara. These officers are borne on the Rajputana Provincial List, which consists of 56 men, of whom 48 are Hindus, 5 are Muhammadans and 3 are Christians. Sub-Assistant Surgeon Syed Khurshid Hussain is not on foreign service but is at present serving within the province as Sub-Assistant Surgeon, Mewar Bhil Corps Hospital, Kherwara.

(*b*) Does not arise.

(*c*) Please see reply to part (*a*) above.

(*d*) Does not arise. Appointments to such of the medical posts as are filled locally are usually made by promoting existing medical officers, having regard to seniority and efficiency, and claims of suitable Muhammadan officers are always considered in filling them.

(*e*) No vacancy is likely to occur on the retirement of Rai Bahadur Dr. Nand Lal, as it is proposed to abolish one appointment in that chain as a measure of retrenchment.

(*f*) Does not arise.

(*g*) Applications and claims of suitable qualified Muhammadan candidates to vacancies in the Medical Department have always been and always will be considered.

FACILITIES FOR HINDU RAILWAY EMPLOYEES AT TUNDLA FOR THE DEWALI FESTIVAL.

11. **Kunwar Raghubir Singh:** Will Government be pleased to state whether any facilities were given to Hindu railway employees at Tundla on the last Dewali festival as usual? If not, why not?

Sir Alan Parsons: The Agent, East Indian Railway, reports that the railway staff at Tundla did not ask for any assistance from the railway during the last Dewali festival.

RAILWAY SALOONS PROVIDED FOR RAILWAY OFFICIALS.

12. **Kunwar Raghubir Singh:** (*a*) How many railway officials in each railway use saloons?

(*b*) How many of them are Europeans and how many Indians?

(*c*) Do Government propose to reduce their number to an appreciable extent in view of financial stringency?

Sir Alan Parsons: (*a*) and (*b*). The information is not available.

(*c*) Any appreciable reduction in the number of saloons would involve considerable expenditure on the construction or enlargement of rest house accommodation. It would also mean that railway officials would occupy accommodation required for the travelling public.

AMERICAN WHEAT IMPORTED INTO INDIA.

13. **Kunwar Raghubir Singh:** How much American wheat has been imported into India since last year?

The Honourable Sir George Rainy: There were no imports of wheat from the United States of America, Canada or the Argentine in 1930 and, so far as is known, none in 1931.

MOTION FOR ADJOURNMENT.

THE ARREST AND INTERNMENT OF MAHATMA GANDHI.

Mr. President: I have received three notices of adjournment motions, the first being from Mr. Ranga Iyer. He proposes to ask for leave to make a motion for the adjournment of the business of the House today for the purpose of discussing a definite matter of urgent public importance as follows:—"The arrest and the internment of Mahatma Gandhi". I am to inquire whether any Honourable Member has any objection to this motion? (After a pause.) As no objection is taken, I have to inform Mr. Ranga Iyer that he has the leave of the Assembly and that the motion will be taken up for discussion at 4 P.M.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): I ask you to consider whether . . . . .

Mr. President: Are you raising any point of order?

Mr. K. Ahmed: I am asking whether the time . . . .

Mr. President: You cannot ask anything more. I have already decided that the motion will come up for discussion at 4 P.M.

Mr. K. Ahmed: May I ask for the indulgence of the House, Sir, to state something with regard to the hour fixed for discussing the adjournment motions under the Rules and Standing Orders. The hour fixed for discussion of adjournment motions is between 4 and 6 P.M. . . . .

Mr. President: It is very difficult to follow the Honourable Member. I do not know what the Honourable Member wishes to say.

Mr. K. Ahmed: If you will, Sir, kindly allow me a second, I shall explain my view. I am asking you at this stage whether the hour fixed for taking up adjournment motions cannot be changed in view of the fact that we are fasting on account of Ramzan. Instead of taking up this motion between 4 and 6, as stated in the Rules and Standing Orders, would it not be convenient during these Ramzan days to take up this and several other motions that might be brought forward during these Ramzan days before the usual hours fixed by the Rules and Standing Orders. You were kind enough, Sir, to adjourn the House early so as to allow Muhammadans to say their prayers on Fridays . . . . . .

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): May I ask the Honourable Member if he has observed Ramzan?

Mr. K. Ahmed: You know, Sir, that in these days the sun sets at half past five. I am therefore asking you whether we cannot take up this motion earlier, whether you cannot fix the hour between 3 and 5 P.M. instead of between 4 and 6; I do not think any Honourable Member in this House will have any objection to my proposal.

Some Honourable Members: No, no; we have no objection.

Mr. K. Ahmed: Sir, the majority of the elected Members of this House approve of the idea, I have stated above.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Sir, I support what my Honourable friend has said. In these days of Ramzan it will be very difficult for Mussalmans who observe fast to stay in the House till 6 o'clock. I think that the agenda of today's business will be finished before 4 o'clock, and so if you are so pleased, the adjournment motion may be taken up earlier than 4 o'clock and the whole thing may be finished at half-past five.

Mr. President (the Honourable Sir Ibrahim Rahimtoola): The question for consideration is the state of the business before the House on the day when the adjournment motion is to be discussed. While the Chair is fully alive to the point which has been brought to its notice, I think much will depend upon what the sentiment in the whole House is in regard to it, and what the state of the business on the day is. To-day is a non-official business day for legislation, and in view of the fact that a very limited number of days is allotted for non-official business, it is for consideration whether this motion can be taken up earlier. The attention of Honourable Members is drawn to the relevant Standing Orders. If the business of the House demands that we must take up the adjournment motion at 4 o'clock, the Chair is helpless in doing anything else. At the same time the Chair will bear in mind the point raised and will do its best, consistently with the Standing Orders, to meet it if further adjournment motions are brought forward during the month of Ramzan.

THE INDIAN PARTNERSHIP BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

Sir Lancelot Graham (Secretary, Legislative Department): Sir, with your permission I lay on the table the Report of the Select Committee on the Bill to define and amend the law relating to Partnership.

THE HINDU WIDOWS' RIGHT OF INHERITANCE BILL.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): Sir, I rise to move:

"That the Bill to secure a share for Hindu widows in their husbands' family property be referred to a Select Committee consisting of the Honourable the Home Member, Mr. R. K. Shanmukham Chetty, Mr. Ramsay Scott, Pandit Ramkrishna Jha, Mr. Hari Raj Swarup, Sirdar Harbans Singh Brar, Mr. S. C. Mitra, Mr. Muhammad Yamin Khan, Sir Hari Singh Gour, Mr. B. Sitaramaraju, Mr. A. Das and the Mover; and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be four."

Sir, the Hindu Widows' Right of Inheritance Bill was first introduced by me in the Legislative Assembly on 26th September 1929 and was taken into consideration on the 21st of January 1930, and ordered to be circulated. In pursuance of that decision, the Bill was circulated and opinions were received. On 15th July 1930, the Bill came up again before the House and a motion to refer it to the Select Committee was made. But before the discussion concluded and the Select Committee could meet, the

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Assembly was dissolved and the Bill consequently lapsed. The first session of the present Assembly took place last year in Delhi and I reintroduced the Bill in a slightly modified form—modified to meet the chief objection taken to the provisions of the Bill by some of the associations and persons to whom the Bill has been circulated. The Bill thus now comes up before the House in a form acceptable to the vast majority of those who were consulted by Government on the previous occasion, and whose opinions were then circulated to Members. It will be observed that the Bill has been before the public for over two years.

Before discussing the provisions of the Bill, I wish to read a few of the opinions of high judicial and other responsible authorities to show the urgency of the enactment of the measure.

Mr. Justice Naimatullah says:

"The position of widows in Hindu families except where she happens to be widow of a sonless person is one of helplessness."

The S. D. O., Bansdah, says:

"Hindu widows are proverbial in their miserable condition. I know of many an instance in which the widow lived in luxury in the lifetime of husband but soon after the death of her husband she had to bear untold suffering and trouble."

The Collector of Balia says:

"The present condition of the widow is the most deplorable thing imaginable. I know instances where ladies had to pass their lives on needle and other such income while in the lifetime of their husbands they used to live as *Ranis*. These are not exceptions, but a rule in all big joint Hindu families. The exception is when a widow is mercifully treated."

The Chairman, District Board, and President, Hindu Sabha, Ballia, says:

"The condition of a Hindu widow has become proverbial in helplessness. The treatment accorded to them is simply deplorable and repugnant to the very sense of humanity and decency. The moment the husband dies, his better-half begins to be looked upon as a positive evil in the family. She is at the mercy of the collaterals who want to get rid of her as soon as possible. The manifold cruelties meted out to the widow can better be realised than described."

Rao Bahadur V. M. Kelkar says:

"The lot of the Hindu widow in joint Hindu family left to the tender mercies of her unsympathetic relatives who consider that there is no justification for her existence after her husband's death, who look upon her as a superfluous person to be tolerated as an inevitable evil has been the subject of numerous complaints in the press and on the platform."

The Collector of Tinnevelly says:

"The moral sense even of those who are not reformers is shocked by the preference to distant reversioners to the widow. I consider the Bill most welcome and most necessary."

The Commissioner of Multan says:

"The position of a Hindu widow under the Hindu law of inheritance is really deplorable."

The Commissioner, South Division, Bombay, says:

"The position of most Hindu widows is deplorable."

The Sri Shivaji Mahratta Society, Poona, says:

"The plight of Hindu widows is extremely distressing and deplorable. She is completely at the mercy of the male relations of her husband."

The Honourable Mr. B. V. Jadhav says:

"The condition of a Hindu widow is indeed very deplorable. She is completely at the mercy of her *Bhaibands*."

Justice Sir Jwala Prasad says:

"The widows of a joint Mitakshara family are left at the mercy of the agnates of her husband."

Before I go further, I would briefly state what the ancient texts say about the wife's right in her husband's property. I would begin with the text of the Sage Datta, *Dampatyormadhyagam dhanam*, which means "Wealth is considered as common to the married pair". Not only was wealth regarded in old days amongst the Hindu as being owned by husband and wife jointly, but whenever occasion arose in those days for dividing the estate, the wife or mother was counted as a sharer just like a co-parcener, and this is the reason why the mother was given a share equal to that of her son, when a partition took place either during the husband's lifetime or after his death. As Babu Golap Chandra Sircar Sastri puts it—

"She gets the share in virtue of the co-ownership she acquires from the moment of her marriage in her husband's property, by reason of her being the lawfully wedded wife and, as the Mitakshara holds, partition does not create any right, but it proceeds upon the basis of pre-existing rights."

Thus, it is clear that the fact that the wife is the co-owner of her husband's property can be the only basis on which her right to a share on partition can be explained. And the fact that her share was and is equal to that of her son or husband, neither more nor less, clearly proves that she is co-owner of the property. Her right to succession to the property of her deceased husband was admitted on the basis of her status as co-owner with her husband and Mitakshara expresses it in so many words. It says:

"If it be objected that jointness is declared even as regards ownership of property in the texts: yes, the wife's ownership in the (husband's) property is certainly shown by the text, therefore the ownership of the (husband's) property is vested in the wife also."

Jimutavahana makes it clearer still. While criticising the position taken up by some commentators he states:

"Nor is there any proof for the proposition that the wife's ownership in her husband's property accruing to her from her marriage ceases on his death."

In spite of the very liberal conception about her status in the family of her husband as co-owner of his property, that was formulated by the text writers as the foundation of all her rights either as wife or widow, English judges who decided the earlier cases misunderstood this fundamental basis of her right, partly because of their ignorance of the language in which the texts were written, and partly because of the fact that in their own country, rights of women were then not recognised.

Eugene A. Hecker in her "Short History of Woman's Rights with Special Reference to England and the United States", 1911, p. 2, says:

"Throughout her life, a woman was supposed to remain absolutely under the power of father, husband, or guardian, and to do nothing without their consent. In ancient times this authority was so great that the father and husband could, after calling a family council, put the woman to death without public trial".

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Pollock and Maitland, quoted by Miss Hecker, say:

"Our law institutes no community even of moveables between husband and wife. Whatever moveables the wife has at the date of the marrage becomes the husband's and the husband is entitled to take possession of and thereby to make his own whatever moveables she becomes entitled to during the marriage, and without her concurrence he can sue for all debts that are due her."

It was only in 1882 A.D. that the Married Women's Property Act was enacted, which finally did away with the husband's ownership of his wife's property. Thus, as the English judges were unfamiliar with the rights of women in property in their own country, they interpreted the Hindu law in a most narrow spirit, with the result that women's legitimate rights in India have been curtailed to an alarming extent not warranted by the true interpretation of the texts. That the wife is co-owner of her husband's property in a subordinate sense was acceded to by the Allahabad High Court in 1879 in *Jamna* v. *Machul Sahu;* but this right was modified by the Bombay High Court in 1880 in *Narmadabai* v. *Mahadeo Narayan, Kashinath Narayan* and *Shamabai*, by implying that the co-ownership does not involve independent or equal powers of disposition or exclusive enjoyment and is not of a kind that accepts the rules applicable to ownership in the ordinary sense; while the Calcutta High Court curtailed it still further in 1903 in *Punna Bibee* v. *Radha Kissen Das*, by stating that the wife cannot be regarded as co-owner so as to be able to enforce a claim for maintenance against a purchaser for value. I will read one more passage from a valuable pamphlet written by Mr. V. V. Joshi, B.A., LL.B., of Baroda:

"A widow is entitled after the death of a person who was joint with other coparceners at the time of his death, to succeed to his interest in the undivided property, she being a co-owner with her husband. As *Vridha Manu* states: 'A sonless widow, who keeps unsullied the bed of her lord, should alone offer the cake and succeed to his *entire share*. Here the widow's *right of succession* to the *entire* share of her husband's property is definitely and very clearly asserted. In deciding the *legal effect of death of either husband or wife on each other's rights*, Brihaspati lays down: 'A wife deceased before her husband takes away his consecrated fire; but if the husband dies before his faithful wife, she takes his property'."

In the face of these texts, it is absurd to assume, as has been unfortunately the case with the present *case made law*, that with the death of her husband, wife's interest in the property as co-owner with her husband vanishes altogether . . . . Brihastpati makes clear the whole legal position in stating thus:

"In the Veda, by the traditional law of the Smritis and by popular usage, the wife is declared to be half the body of her husband equally sharing the outcome of good and evil act. Of him, whose wife is not dead, half (his) body survives. How should any one else take his property, while half his body lives? Although kinsmen, although his parents, although uterine brothers be living, the wife of him who dies without leaving a male issue shall succeed to his share."

Babu Golap Chandra Sarkar Sastri, while commenting upon her right, summarises the whole situation thus:

"Her right as co-owner in her husband's interest of the joint family subsists even after the husband's death, although her husband's right as distinguished from hers may pass by survivorship or by succession to sons or even to collaterals; these simply step in into the position of her husband, and she is required by Hindu law to live under their guardianship after her husband's death. The reason for recognising her right continues even after her husband's death. The inferior dependent status of her sex prevents her from taking the husband's interest by survivorship while she is surviving half of her husband's body, a male issue is his consubstantial; and in a joint family, the female members occupy an inferior position and must live under the protection of the male members, but their interest in the family property remains unaffected by the husband's death. Besides, it is contrary to the reason for recognising this right, and contrary to the Mitakshara and to its fundamental doctrine, namely, that partition cannot create any right but proceeds upon the footing of pre-existing rights, and that it is by virtue of the wife's right to the husband's property that she obtains a share even when partition is made by her sons after the husband's death, and that it is by virtue of this right that she continues to enjoy the family property so long as it remains joint after the husband's death'."

I will now deal briefly with a few of the matters to which attention has been called by various people to whom the Bill was circulated. Some three or four of the people who were consulted, say that the Bill goes against their semi-religious or religio-social beliefs. Sir, where the belief is sincere and genuine, I sympathise with the people holding it. No one wishes to tread unsympathetically on the toes of people's beliefs. They are Hindus and I am a Hindu of Hindus. I would, however, respectfully point out to them that this Bill does not even remotely affect their religious beliefs. Devolution of property is a human device to promote personal and social welfare. It is governed by rights which the collective wisdom of peoples inhabiting different countries of the world attaches in those countries to relationships, some of which are natural and others created by necessities of life. And as human relationships are liable to change, readjustments of things have to be made to secure happiness and welfare, and the laws governing those readjustments must also be changed as necessity arises. In one society a system called the joint Hindu family system prevails; in another it does not. Therefore the laws of property governing the two societies must necessarily be different. Joint Hindu family system is not a matter of religion. Were it so, no provision for separation of members forming a joint Hindu family could be provided or tolerated by the Sastras. The very fact that the system itself contains provisions for separation of members of a Hindu joint family and bring the joint character of the family to an end, proves conclusively that the system is not a matter of religion but a social and economic convenience.

Then we find that the laws relating to inheritance amongst the Hindus vary with provinces and communities according to values attached to human relationships, as illustrated by the Mitakshara, the Dayabhaga and by the Mayuka schools, while there are communities which are governed by customary law which also varies from province to province and community to community. Hindu law-givers differ radically amongst themselves as to the rules of inheritance. That being so, how can a solitary change in that law or the application of a rule of inheritance obtaining in one province to another be termed an interference with religion in any sense of the term. And if there are people who hold that every act of a Hindu during his life, whether as regards food, clothing, bath, travel, habitation, culture or social relations is a matter of religion, then these acts cannot be held to be sacrosanct, for how can rules often contradictory of one another be all sacrosanct? It is perfectly true that laws governing inheritance should not be lightly changed. But where grave changes in the social organisation of communities take place owing to the changing circumstances of a country, particularly where owing to the disintegrating action of foreign influence and of forces originating beyond national control, the outlook on life and ideals governing life are

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changed, changes must be made in the laws of inheritance to bring about a readjustment of relations in order to preserve just rights and secure happiness and prosperity. This in no way interferes with the basic principles of the faith to which they owe allegiance.

An objection is sometimes taken, as has been done in this case also, to social legislation on the ground that piecemeal legislation is not desirable. Dr. Ganganath Jha of Allahabad deprecates tinkering with Hindu law here and there. Does he then really expect that the whole of the Hindu law should be thrown away and a new system be substituted in its place? *Reform can only be peaceful.* As times change and changed circumstances require readjustments, changes are introduced. Conserve what is useful and change what altered circumstances require to be changed. Later if what is now useful ceases to be useful and is found to be harmful owing to changed circumstances, then that may also be changed. A certain part of the human body becomes diseased, no doctor out of Bedlam would advise that instead of treating the diseased part by applying medicines to it or performing an operation on it, the whole body should be subjected to that operation. A crack occurs in the wall of a house, would you repair it or go and pull the whole house down and rebuild it?

Another objection raised whenever justice is sought to be done to widow or woman is that she is ignorant and does not know how to manage things and would only waste property if it is given to her. This argument is of the any-stick-is-good-enough-to-beat-a-dog-with variety. You deprive people of all arms and then say they are not martial. Moreover, it is a libel on women to say that they would waste all property, if it is given to them. Members of this Honourable House will, I am sure, from personal experience, deny that. An instance here or there of waste would occur but because in a rare case, woman misuses her property, it does not follow that all women should be deprived of their rights. Do we not constantly meet with cases of young men wasting their patrimony not only to their own detriment but to the grave injury of the women dependent on them. Have you ever proposed that young men should not be given shares in property? Why is this argument trotted out when rights of women are concerned and not when the inheritance law for men is discussed. The only proper and effective answer to this objection would be given when women would assemble and discuss and decide what rights should be given to men and what withheld from them, as there are so many instances of men wasting their patrimony. And as sure as the day follows night, the day is coming when in our legislatures, women will have their say as to what rights should be enjoyed by men and what not.

It has also been alleged by one or two persons that if women are given rights of sharing property with men, grave disturbances would incur in Hindu society. May I ask in reply what cataclysms have occurred in those societies where women enjoy rights of property and where the law gives them shares in their father's property as well as their husbands. I am surprised that men should so far forget themselves and belie their courtesy and culture as to utter such deprecating things about a class wherein are to be found their mothers, sisters, daughters and wives.

I will now cite an instance to show how little thought even the highest judicial officers of Government sometimes give to Bills circulated to them

for expression of their opinion. Mr. Macnair, Additional Judicial Commissioner of the Central Provinces, says:

"In other systems of law, a widow succeeds only to a share in her husband's rights. I therefore do not approve of the Bill."

Mr. Macnair betrays ignorance of the conditions and facts of life in India, as also of the other systems of law of which he talks. He conveniently forgets when he talks of those systems of law that those systems of law give every girl a share in her father's property and what she gets from her husband's property is in addition to what she got from her parents. Amongst Hindus a girl gets no share in the paternal estate. This makes all the difference in the world between Hindu law and the English and Moslem systems of law. He also thinks that the clause 'disinherits adult sons'. Nothing of the kind. Those adult sons, unless they separated from their father during his lifetime and got their shares, remained members of a joint Hindu family and, as coparceners, were under the Mitakshara law fully entitled to their shares and the share of the deceased husband of the widow which she would get was exclusive of the share of the sons.

I now come to the provisions of the Bill and would deal with them briefly. Before I do so, however, I must make it clear that the present Bill differs from the Bill introduced and circulated in 1929 in one important respect. The old Bill provided in clause 3 (1) that the share that the widow was entitled to get on partition should become her absolute property. When the Bill was circulated, most of the criticism was directed against this provision. While sympathy with the object of the Bill was universally expressed, objection was taken in some quarters to giving a widow a share absolutely. The great majority of those who objected to that Bill objected only to property vesting absolutely in the widow as it cut across rights of survivors. Many said that they would support the Bill if the share was of the nature of a widow's estate.

Now, though justice requires that a widow should have full rights in the share she gets, yet in order to disarm opposition and meet the views of the majority of those who took objection to the Bill only because of this provision of the Bill, I have in this Bill deleted the words, "This share shall become her absolute property".

If we now take this alteration in the Bill into consideration we find that an overwhelming majority of opinions of those to whom the Bill was circulated is in favour of the Bill. Counting a High Court as one, when it has expressed no opinion, but counting separately the opinions of individual judges when they have expressed their opinions on the Bill, we find that leaving out of account about 17 or 18 bodies or persons who have not expressed opinion either way, there are 96 opinions in favour of the present Bill and 45 against it. Many of those who are in favour of the Bill suggest minor amendments and many of those who are against the Bill also suggest some amendment or other.

Of the opinions recorded, all are of men or bodies of men except 3, two of which opinions are of individual women, and one of a women's association. This shows that the circulation of the Bill was unfair and that injustice has been done by Government by not inviting the opinions of the class for which the Bill is intended. The Bill ought to have been circulated to all women's associations and prominent women in the country. Had this been done, there would have been a chorus of approval

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of the Bill in the country as the entire womanhood of India would have been found in favour of the Bill, this is clear from the unanimous support which all the women consulted have given to the measure. They all heartily support the Bill. The Bill has also received support from one and all of the Women's Associations that have come to know of this Bill.

A significant fact comes to light in connection with these opinions. One of the opinions is that of Lady Jugmohandas, wife of Sir Jugmohandas of Bombay, who also was asked to give her opinion. And what do we find? While Sir Jugmohandas is against any change in the law and is against the Bill, Lady Jugmohandas supports the Bill, and adds that the Gujrati Stri Mandal (Gujrati Women's Association) of which she is President, whole-heartedly support the Bill. What can be a better and a more forceful illustration than this difference of opinion between the Bombay Knight and his wife, of the awakening of women in Hindu society as it proves that even the women of the most orthodox families, supposed to be under the influence and sway of the old world notions and of reactionary husbands and *heads* of families are awakening to the realities of the situation, and are rapidly realising their abject, unstable and humiliating legal position in the social polity of India? They are beginning to assert themselves and show their silent strength and are determined to regain their proper and rightful place in society to enable them to contribute their full share towards the building of a strong, self-confident and self-respecting nation. I trust, Sir, this House will take note of the fact that the women of India are determined to fight for justice and liberty for their country and for themselves. And it behoves the Members of this House to recognize their claim and assign them a position in society which justice and honour require us to assign to them.

Sir, some of the criticism levelled against the Bill is due to a misunderstanding of the provisions of its clause 3, sub-clause (*2*), due perhaps to the fact that the language is not clear. It has been construed to mean that when a Hindu who is not a member of a joint Hindu family leaves a son or sons and a widow, his property under this clause goes to his widow to the exclusion of his sons, and critics have complained that the Bill favours the widow to the deprivation of the sons of their rights. The Collector of Madras says:

> "I think that it will be enough if the widow takes an equal share along with the sons of the property left by her husband."

This, as a matter of fact, is what the Bill provides. Sub-clause (*2*) of clause 3 states that the widow will take the property of her husband when at his death he was not a member of a joint Hindu family. Now if he had a son or sons, he was, under the Mitakshara law, a member of a joint Hindu family with his son or sons, and this sub-clause does not apply to his case. His case will be governed by clause 3, sub-clause (*1*). The Select Committee may amend the language of clause 3 so as to make the intention of the Bill clear that, whether a family is governed by the Mitakshara or the Dayabhaga, the sons shall always have their shares in their father's property. Sir, when the proviso to sub-clause (*2*) gives half the property of the deceased even to an adopted son—a son adopted by the widow to her husband after his death according to law or custom, how could the Bill be construed so as to deprive the sons of her husband

by her or other wives of their shares in the property? Of course, if a man's sons separated from him after receiving their shares of the family property, then his property on his death passes to the widow. For a son could not claim a double share for himself.

The Collector of Tinnevelly, taking the case of a joint Hindu family in which one brother has 12 sons and the other is childless, asks if the widow of the latter would take only a 1/14th share. The answer is no. She is entitled to the share which her husband was entitled to get if he had separated at the time of his death. She cannot claim under this Bill more than her husband could claim. Her husband would have been entitled to half of the estate and she would, under this Bill, get that half.

The Bill as it now stands does not touch any one's rights in the property. The right of survivorship remains intact. Even the rights of reversioners are in the main safe. Though the Collector of Tinnevelly voices the opinions (paper 1, page 34) and the sentiments of thoughtful people when he says that, "The moral sense even of those who are not reformers is shocked by the preference of distant reversioners to the widow," yet even this is safeguarded and it is left to the Select Committee or the Members of this House to treat the widow more liberally and recognise her claims in preference to those of distant and very often hostile relations.

In conclusion, I wish to emphasize that by accepting my motion, the House only accepts the principle of the Bill, which is that the lot of a Hindu widow, who at present neither gets a share in her father's property nor in her husband's, should be ameliorated by giving her some rights in the property which belonged to her husband, for her support in her widowed life. How much is she to get, and in what shape, are matters not vital to the Bill and will be decided by the Select Committee and this Honourable House. It is the business of the Select Committee to improve the draft where necessary and make clear any point that may be obscure and define the extent and nature of the right that the Bill gives to the widow,—this may be necessary in view of the fact that when a man leaves a widow and one or more sons, under the Dayabhaga law a son does not become a co-parcener by birth, though he does under the Mitakshara law. The Bill has absolutely no intention to disinherit any son. I appeal to the Honourable Members of this House—to my European and Muslim colleagues, that this Bill attempts only to give to the Hindu widow only a part of what their own laws already give to widows governed by those laws, and therefore deserves their support. (*Mr. K. Ahmed*: "We have no objection".) I also appeal to the Hindu Members that this Bill is but a humble attempt to ameliorate to some extent the lot of a helpless class of women who, as members of Hindu society, are subject to grave disabilities and have to stand the rigours of a life which, alas, only Hindu widows in this world have to do! Sir, I will not read to you the many letters I have received from widows from the various provinces of India giving me harrowing accounts of their sufferings, all due to their possessing no legal rights to property. Sir, I move.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, I yield to none in my appreciation of the chivalrous spirit of my Honourable friend who has moved for reference of this Bill to a Select Committee, and I am very sorry to oppose a reference of this Bill to

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a Select Committee, for by allowing it to go to a Select Committee, we shall be committed to the principles of the Bill. The Honourable the Mover has been pleased to say that the principle of the Bill is to do away with the deplorable condition of Hindu widows.

Diwan Bahadur Harbilas Sarda: I did not say that.

Mr. Amar Nath Dutt: If my ears did not fail me, I heard him say that the principle of the Bill is to ameliorate the lot of the Hindu widows.

Diwan Bahadur Harbilas Sarda: That is the object of the Bill. The principle of the Bill is that something should be done to give the Hindu widow some right in her husband's property. This will be a help to her. That is the principle of the Bill.

Mr. Amar Nath Dutt: Then my friend corrects himself, because I took a note of what he said was the principle of the Bill.

Diwan Bahadur Harbilas Sarda: "The object of the Bill", I said.

Mr. Amar Nath Dutt: You uttered the word, though it might have been unwittingly.

Diwan Bahadur Harbilas Sarda: My speech is all written, and you can see it.

Mr. Amar Nath Dutt: My reason for opposing reference to a Select Committee is based on the bed rock of faith in the wisdom of the *Rishis* of old. I do not know whether they were as learned as many of us, legislators here, but I know this that the reverence for these ancient lawgivers and adherence to it has been a source of inspiration to the vast millions of the followers of our ancient religion. I know that my friend belongs to a section who are known in this country as reformers and I have no quarrel with them. But, at the same time, if they want freedom of opinion for themselves, I think it is right and proper that those who differ from them should also have freedom of opinion. Sir, this Bill lays the axe at the root of the fundamental principle of Hindu social organisation by assuming that we, legislators, following different religions, have a right to legislate upon matters upon which our ancient *Rishis* legislated. That is a position which I am unable to accept for myself and I believe that a vast section of the Hindu population which still believes in the Sanatan Dharma will not accept it. I am very sorry that my friend, in his long scholarly essay, has harped only on one theme, namely, the unfortunate lot of our widows. I sympathise with him for his experience. Of course, I do not say that he was trying to draw a picture from his imagination. But the experience of many of us on this side of the House is quite different. At least in my province I do not think anyone can say that the lot of a Hindu widow is deplorable. On the other hand, barring the fact of their widowhood, so far as the worldly goods are concerned, they are in a far better position than any widows in any land. I may here point out to my friend that he has not said in his Bill why it should apply to people who are not only subject to the law of Mitakshara but also to those who are governed by Dayabhaga. I believe that he had probably no occasion to administer justice according to the law of Dayabhaga in the province where he was a judicial luminary. Perhaps he does not know that in the Province of Bengal where the system of Dayabhaga prevails, the Hindu widow who has no children of her own gets the whole corpus of her husband's property and she is always better off than her husband was so far as wealth is concerned. A widow who inherited the husband's property would be immensely richer than when her husband was alive because the husband had to attend to many social obligations which cost him a lot of money while the widow was always free from several such social obligations. All these things my friend forgets. I beg to submit that, apart from all these things, my objection to this Bill going to the Select Committee is based on the ground that it lays the axe at the root of the fundamental principle that no Legislatures constituted under the Reforms Act of 1920 or the future Legislature under the future constitution of India has any right to interfere with the inherent rights of the Hindus to be governed by laws promulgated for them in their Shastras. The present day legislators may think that they are wiser and probably better fitted than our ancient *Rishis*, but they have got to convince us why we should not follow the path chalked out for us by our ancient sages and follow them. While yielding to none in my appreciation of the scholarship of my friend, I am sorry to say that so much scholarship and so much goodness—I know him to be a very good man—have been misdirected in the way in which they have been. He laid the axe at the root of the Sanatan Dharma when he got a Bill passed some two years ago with the help of an alien Government. I am happy to note that this time the Government has become wiser and are not going to commit the same mistake. Be that as it may, I would appeal to the Honourable Member's good sense that out of deference to the millions of my countrymen, with whose views he may differ, he ought not to bring any such outrageous measures before this House. Furthermore, I would point out that this is not the time to waste our energies over such frivolous things when we have more serious things to attend to. As my Honourable friend knows, millions of our countrymen today are going without food; they are without raiment and shelter. Is this the time to indulge in interference with the religious beliefs of others from whom we differ? I think he has unwittingly done it and I hope good sense will still prevail and he will withdraw this outrageous Bill.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, both by my secular education and religious eduction I am taught to look upon a woman with as much reverence as upon any man. I think women have got as much right to live as men have. The ancient laws were made by men and they deprived women of a great part of their share. As the times are changing and the reformers are coming into the field, it is but right to give them their due so that society may begin to change its views about women-folk. Now is the time that a woman who has been deprived of her right share in the past should be given that right, and if anybody comes forward to help them he should be encouraged to do so. I have been supporting all the measures which have been brought forward in this House in the shape of reforms by different Honourable Members from the very beginning and I think I must give my personal support in this matter also when I find a man like Diwan Bahadur Harbilas Sarda taking up the lead as a Hindu gentleman to ameliorate the condition of the Hindu widows. I have got my personal sympathy with his Bill and the measure which he has brought forward in order to improve the condition

[Mr. Muhammad Yamin Khan.]

of the Hindu widows as I find them in great distress in this country. I would have refrained from speaking or from giving any support or even voting on this measure as a Mussalman, because I would have thought that this was probably a measure to be decided by the votes of the Hindu Members. If the Hindu Members of this House had come to a decision on this point, I would have refrained from voting. In my capacity as a Barrister, I have come to know many cases in which the Hindu widows suffered a great deal. I have appeared on their behalf and I found them in the most miserable condition and I found a great deal of injustice was done in the name of law and religion. If my Honourable friend Mr. Amar Nath Dutt thinks it a religious law, there are others who contest that view. It is a law made by men to suit the conditions in which they lived. After listening carefully to the expositions and reasonings given by Mr. Sarda, I am glad he also supports my views, that these social laws are made for the time being to suit society. If that was the view of even a section of the Hindu society, I felt it would be my duty to support them in their effort to give redress to the oppressed section of humanity, which had been oppressed for a very long time. I have seen a good many widows deprived of their food while they really enjoyed great luxury in the time of their husbands. If it is joint family property, the reversioner or the brother of the deceased husband does not treat the widow with as much cordiality as is her proper share. It is a pity that a woman, as soon as she loses her husband, loses not only her best partner in life, but also loses her right of enjoyment, and she becomes dependent on the charity and goodwill of the relations of the deceased husband. I have got no quarrel either with the Mitakshara law or Dayabhaga law. There is a difference as far as inheritance is concerned. There are as many people who believe in the one as in the other. They are quite at liberty to do so. But here is a question where we find that women are not treated as well as it is their right to be. In many cases they are not treated like human beings. If champions like our friend Mr. Sarda take up their cause, it is the duty of every man who believes in humanity to support him. If Hindu opinion is as strong against it as made out by Mr. Amar Nath Dutt, then I am very sorry for it. But I think many Members in this House will support this motion of Mr. Sarda and I also support him in this motion which he has made today.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): I am sorry to say I have got to oppose this motion made by my Honourable friend Mr. Sarda, who made it out to be a very innocent thing. He said it is only a question of principle that is involved; the rest and the more important thing would be done by the Select Committee, that question of principle being or at least asserting that the Hindu widow is subject to all sorts of persecutions and tyrannies which human wits could devise. Being in that position, something must be done in order to give her relief. Has any widow complained to Mr. Sarda? Since he introduced this Bill, of course any one could get some of these letters written, but whether the writers understood the contents of those letters or not is a different matter. Before this Bill was introduced, was there any reasonable demand from any reasonable section of the community affected so as to entitle my friend to introduce this piece of drastic social legislation?

Diwan Bahadur Harbilas Sarda: Hundreds of cases in every province.

Raja Bahadur G. Krishnamachariar: I have not seen those cases. So far as this Assembly is concerned, it has not seen even one case, except the statement of my Honourable friend, which, of course, I accept. Such being the case, in all pieces of social legislation the most important thing to consider is to see whether there is any such large demand on behalf of the community affected that it would be right for the Government to interfere and enact a piece of legislation of this nature. The case has been put—and I will not labour the point—by the Chief Commissioner of Delhi where he says he is of opinion that the question is one best left to the wishes of the community concerned. So far as I know there is no such evidence, and this principle, although for once forgotten at the time when the Child Marriage Restraint Bill was being discussed, was reiterated by Sir B. L. Mitter (who I see is now absent) when a subsequent piece of similar legislation was attempted to be introduced in this House. The same principle was enunciated by Mr. Jenkins, at one time Home Member of the Government of India, about 1910, and from that time up to now that principle had been insisted on consistently, the most recent instance being when Sir Hari Singh Gour tried to introduce his Bill to amend the Indian Divorce Act. At that time the Home Member put his foot down very heavily and said that, before Government decided to support that Bill, they ought to have before them strong cogent evidence that the community or a portion of the people affected would agree or welcome it. There being no such evidence, the Government opposed it. That is the principle which governs all pieces of social legislation and it has not only been admitted in this House, but if I had the time, I could show from the opinions of persons, which were commented on by my Honourable friend over there, from the opinions of those persons trained in law and legislation who have had experience either as advocates or judges, that they were all unanimously of opinion that this is the basic principle of social legislation. I submit, Sir, that the first and the most important requisite of this legislation being wanting, this Bill ought not to go before the Select Committee. It is curious that, although there were hundreds of these requests from all provinces and although my friend grew a little bit wiser—not fully wise, as I shall show, from Sir Sivaswami's opinion—by the opinions that were sent in upon his Bill of 1929, he does not refer to one single letter in his Statement of Objects and Reasons. Now, Sir, I believe that the Statement of Objects and Reasons is insisted upon as one of the conditions of a Bill being introduced in a legislature in order to show ignorant men like myself why it is that this legislation is brought up. Who wanted you to do it? Superfluous legislation or unnecessary legislation has always got a pernicious odour, so that you want somebody to ask for legislation of that kind, and my Honourable friend Mr. Sarda, who had in his pocket hundreds of these petitions and requests to flourish in my face when I raised any objection, unfortunately forgot all about it. In the Statement of Objects and Reasons he went to Katyayana and Dayabhaga and to all those gentlemen who say that the lot of Hindu widows is very sad and deplorable, but he does not give us one instance of any of these hundreds of widows who say, "For God's sake relieve us from this state of misery."

1P. M.

Mr. Amar Nath Dutt: These are confidential letters. (*Laughter.*)

Raja Bahadur G. Krishnamachariar: I hope I shall not trouble this House with a lot of disquisitions about what the old law-givers have said,

[Raja Bahadur G. Krishnamachariar.]

but the argument which was placed in the forefront by my friend is that the lot of the Hindu widow is deplorable. Who says that? The Collector of some place, the Commissioner of another place, a Judge of some High Court who is not a Hindu, and—I say so with the greatest respect to him—my Honourable friend Mr. Yamin Khan. Mr. Yamin Khan is not yet a Hindu. Unfortunately there is no provision by which you can make a Muhammadan a Hindu, but when that provision does come, I hope I will be able to claim him as a Hindu. But, Sir, the person who tells you that the lot of the Hindu widow is deplorable is a person who does not know anything about the life of that Hindu widow, except that somebody has written in the papers what he thought was the state of the Hindu widow, and that somebody else believed it and a third person wrote it and a fourth man took it up, and a fifth person now comes and flourishes it in our face in this Assembly. No, Sir; that is not the sort of opinion which, I would respectfully submit, this Assembly ought to rely upon before it assents to a Bill which cuts at the root of Hindu society, which sets at nought the most sacred principle upon which the Hindu *dharma* rests, and which flings to the air all those things that had been the solace of millions of people who lived and died under that system. Sir, the world survived the constitutional change of 1921 and the world is sure not to go out of existence directly some other constitution has come to India.

The next condition upon which my Honourable friend relied, that the lot of the Hindu widow is deplorable, has as I said no foundation in fact because you rely upon statements of persons who do not know anything about these things. You only depend on hearsay, as the lawyers call it, and therefore it is not even admissible evidence if it were in a court of justice.

Then, Sir, what is it that legislation of this sort should have as a preliminary before this House can be asked to agree to it? Sir James Crerar, before he was translated to his present place, happened to be in Bombay, and as Secretary to the Government of Bombay in the Home Department he had to record the opinion of his Government—including himself I suppose—in connection with a Bill introduced by my Honourable friend Sir Hari Singh Gour amending the Special Marriage Bill. At that time this is what Sir James Crerar (then Mr. James Crerar), as the mouth-piece of the Bombay Government I take it, stated in regard to legislation of this sort:

"The most important consideration therefore is whether the principle of this Bill has secured the support or is likely to secure the support of a sufficiently large majority of the Indian public. That it has secured such support cannot at present be admitted."

My Honourable friend said by counting the heads that there were so many on this side and so many on the other, but I shall come to that later.

"As there has been no referendum to the people on the issue."

That, Sir, is the standpoint upon which you can say whether the people will agree to it or not. That is not my principle; that is the principle nunciated by the present Home Member at a time when he was Home Member of the Bombay Government.

"Whether it is likely to secure such support can only be decided when there has been a sufficient opportunity for the expression of opinion.....But I am also to

observe that these opinions have been sought for in quarters likely *a priori* to be most favourable to the Bill, that is, amongst some of the most enlightened and advanced sections of the community and amongst those who are most likely to be influenced by considerations of legislative theory rather than by sentiments or religious conviction. There can be little doubt that effective support will come from a limited section of the community. For their enlightenment and desire for progress Government must have every consideration and sympathy. On the other hand Government consider closely their own position and that of the general public. It would, in the opinion of the Governor in Council, be a dereliction of duty on their part to support legislation so fundamentally affecting the prejudices and sentiments of a vast majority of the population without the clearest and most convincing proof that not only will such legislation be acceptable but that it is urgently demanded."

I cannot put my own point of view in better language than that, and that puts in a nutshell my position upon this point, and I appeal to the Honourable Sir James Crerar to say whether consistently with the principle enunciated there, Government could say or anybody else in this House could say that such a legislation would not only be acceptable but that it is urgently demanded. That is not all, I call as my witness my friend Mr. Sarda himself. These opinions that are being circulated—I do not know if Honourable Members have had the time to read through all of them—are very interesting, and I assure you that the opinion of my friend Mr. Sarda is very interesting though in connection with another matter. We all know that in 1922 Rai Bahadur Bakshi Sohan Lall introduced a Bill to amend section 375 of the Indian Penal Code, what we call the Age of Consent, a subject upon which my friend Sir Hari Singh Gour is still hammering. At that time I do not know if my friend Mr. Sarda was in service or outside service, but he was one of the persons to whom the question about the amendment of the section relating to age of consent was referred. In a paragraph in which he deprecates the introduction of criminal law for the purpose of advancing social reform,—he forgot his Child Marriage Bill on that occasion—this is what my friend Sir Harbilas Sarda says (*An Honourable Member*: "He is not yet 'Sir' "). If he is not, he will become one shortly. (Laughter.) After all, practical reform will not go further than is warranted by the intellectual and moral condition of the community concerned. These are his words spoken on another occasion, but they put my case in a nutshell:

"If the proposed legislation is passed, it will cause widespread dissatisfaction and disaffection without in any way helping administrative efficiency or strengthening the government of the country, beyond satisfying a few ardent and perhaps over-zealous social reformers with theoretical notions of things as they should be and who would alter at a stroke the old and time-honoured social constitution of a people which controls and regulates the lives and the happiness of millions of human beings."

Sir, I appeal from Mr. Sarda of 1932 to Mr. Sarda of 1922, and join my friend Mr. Amar Nath Dutt in requesting Mr. Sarda to reconsider his position and to say whether he himself has not been included in these over-zealous reformers, who by a stroke of the pen would alter the time-honoured social constitution of a people. These are magnificent words, splendidly expressed in a manner which I cannot imitate. Then further on my friend Mr. Sarda says:

"As in the field of politics, so in social matters short cuts and sudden leaps taken in defiance of the laws of evolution, which govern complicated organizations as well as individual lives end in failure after causing needless suffering. In politics as in social matters, the task before the people of India is laborious, requiring unceasing labour, patience, sacrifice, and intelligent direction."

[Raja Bahadur G. Krishnamachariar.]

So, Sir, it is not my argument. My friend, Mr. Amar Nath Dutt, was perfectly right when he commending the learning and wisdom, the intelligence and what not of my friend Mr. Sarda, but crowned by his knowledge of the laws of evolution, what did my friend warn the Indian Legislature when my friend Sir Hari Singh Gour wanted to amend the Penal Code. He says: "As in the field of politics, so in social matters, short cuts and sudden leaps taken in defiance of the laws of evolution which govern complicated organizations as well as individual lives end in failure . . . . . " I apologise to you, Sir, for repeating myself, because it is a very important passage upon which alone I think I ought to succeed in my opposition.

Diwan Bahadur Harbilas Sarda: If you will properly understand what I have stated there, you will not raise your opposition to my Bill.

Raja Bahadur G. Krishnamachariar: Unfortunately at 64 it is not possible for me to go to school, but I do think that I understand just enough English to follow what is stated there, and I shall proceed to say what I have got to say.

Diwan Bahadur Harbilas Sarda: I am also 64 now.

Raja Bahadur G. Krishnamachariar: I challenge my friend on the floor of the House to say that this sentence of his does not mean what I respectfully submit for the consideration of the House, it really means:

"As in the field of politics, so in social matters short cuts and sudden leaps taken in ignorant defiance of the laws of evolution, which govern complicated organisations as well as individual lives, end in failure, after causing needless suffering."

Dr. Ganga Nath Jha, who, I suppose, knows the English language a little better than I do, is admittedly one of the eminent authorities on Hindu law. Now, what does he say?

Mr. President: May I inquire how long the Honourable Member is likely to take?

Raja Bahadur G. Krishnamachariar: It is rather important . . . . .

Mr. President: I am not asking the Honourable Member to conclude. I merely desire to know how long he is likely to take.

Raja Bahadur G. Krishnamachariar: I will take some time, say not less than three quarters of an hour.

Mr. President: Very well, the House will now adjourn till 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 in the Chair.

Raja Bahadur G. Krishnamachariar: Sir, just before we separated for lunch I was on the question that it will never do to interfere piecemeal

with the principles of Hindu law or even its details. Before I proceed further, let me finish this quotation. My friend Diwan Bahadur Harbilas Sarda continued:

"In politics as in social matters the task before the people of India is laborious requiring unceasing labour, patience, sacrifice and intelligent direction. The way is long and weary and progress is likely to be slow but the only way to shorten the journey and accelerate the progress is to undertake intensive educative work in hand and not to pass laws. An act of the Legislature will not make a man honest and an act of Legislature will not purge society of the ills it suffers from."

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran: Non-Muhammadan): Who is the author of that?

Raja Bahadur G. Krishnamachariar: That is Diwan Bahadur Harbilas Sarda. Having done that I wish respectfully to invite the attention of this House to some of the opinions that have been already obtained in connection with this Bill. I beg to submit that the proper persons have not been fully consulted, and therefore if you agree to my proposal, let the thing go back to the persons really affected and let us have their opinions. We shall then cut short our speech and we shall be able to reach the adjournment motion immediately.

That the Bill affects and very seriousy affects the fundamental basis of the Hindu society has been accepted by practically every person to whom the Bill has been referred. My Honourable friend quoted the opinion of the Collector of Tinnevelly. A very nice gentleman, Mr. Galletti, but he unfortunately does not possess much idea about the Hindu society. He is a very good co-operator, a very good agriculturist, and he has got a lot of knowledge about agriculture. But I should be sorry to accept his advice upon questions relating to Hindu society. Diwan Bahadur Sundaram Chettiar, who has since become a High Court Judge, says:

"This Bill, designed with the object of ameliorating the position of Hindu widows, in respect of their rights of inheritance, over their husband's estate, tends to effect drastic changes in the Mitakshara law, now prevailing in India. Two of the basic principles of this school of law as understood and settled by a long course of judicial decisions, are the right of survivorship in a joint Hindu family, and the qualified or limited ownership of a female heir, in the property inherited by her. The present Bill, cuts at the root of these two principles, in order to better the status of Hindu widows. . . . . Not satisfied with giving the widow of a coparcener in a joint family, the whole of his share, which she can claim to recover by suing for partition,—the effacement of the right of survivorship now existing—the Bill makes her the absolute owner of that share. She is thus placed on a much better footing than her husband while he was in the joint family."

Diwan Bahadur Harbilas Sarda: On a point of explanation, Sir. I have made it as plain as plain can be, that the share which a widow will get from her husband's joint family shall not be absolute, but shall only be a widow's estate. I have made that clear in my speech. I do not intend that the share which she gets from the joint family property shall be her absolute property. I do not know what my Honourable friend intends to do or does not intend to do. I can only go upon the wording of the Bill.

Mr. S. G. Jog (Berar Representative): In the Bill it is stated that it is absolute property.

Raja Bahadur G. Krishnamachariar: Clause 3, sub-clause (2), says:

"Where the husband of a widow was not at the time of his death a member of a joint Hindu family, the widow shall take all his property absolutely."

Diwan Bahadur Harbilas Sarda: There you are; this is not a *joint Hindu* family. That is separate property,—personal property of the husband.

Raja Bahadur G. Krishnamachariar: I will show presently what Sir P. S. Sivaswami Aiyar thinks about the Bill. There are only two places for which I find that no qualification is necessary at all,—first, to be a minister of the Government, for instance, in the Madras Presidency, and next, to be a legislator—once you get yourself elected to the Legislative Assembly. You do not want any previous training; you have not got to pass any examination. You need not worry about fundamental principles of legislation; you need not trouble yourself about what the previous law is; and you need not trouble about the complications which may be created. All you have got to do is to fling one section on the face of the Assembly and say, why, the widows are suffering and you have got to pass this. That seems to be the whole thing. Sir P. S. Sivaswami Aiyar,—a man who is not accustomed to speaking harsh things or hard things, says in regard to this Bill:

"The Bill as introduced is an extremely crude, ill-considered and ill-drafted measure. The author would be well-advised to withdraw it and entirely re-cast the Bill in the light of the considerations I have referred to."

So I also make that appeal to him very humbly, in view of certain other remarks also that I shall presently submit to this House, and the difficulty that it would land the entire Hindu community in by the various excrescences that it would throw out if it is accepted by the Legislature:

"Whatever its defects or demerits,"

says Mr. Varadachariar, one of the leading advocates of the Madras High Court:

"the existing Hindu Law of Interitance is a complex structure which it may no doubt be very useful to revise in view of changed circumstances, but it is very undesirable to break into. The mere introduction of a change of an isolated character will not only make it illogical and incongruous but involve consequences which the framer of the present Bill is not likely to desire. I will take an instance or two to illustrate my point."

I will omit these cases. Then he continues:

"If the desire of the author of the Bill is generally to improve the lot of women and obviate the uncertainty and harassment arising from reversioners' claims, the Bill must attempt to deal with the problem of the 'woman's estate' generally and not merely with the case of the widow. . . . .Even in the west, very few systems of law give to the widow an absolute interest in the entirety of the husband's estate. If it is desired to rationalise the Hindu law system of inheritance and bring it into accord with what may be called the theory of 'reasonable and justifiable expectations', the system must be recast as a whole on the lines of the Muhammadan law or the Indian Succession Act and the English Law of Distribution, so as to divide the estate among different classes of relations at one and the same time. If such a scheme is devised, there could be no serious objection to each sharer taking absolute right to what comes to him or her; for all legitimate claims could be provided for under the scheme."

Sir, while upon this question I think I might dispose of one other matter, namely, the quotation of long passages from ancient text books. Sir Sivaswami observes:

"It is, however, settled law even in these provinces that she cannot enforce partition but is entitled to a share only when partition takes place at the instance of sons or male members or when the interest of a member is severed by a sale in execution. Though some of the text books speak of the co-ownership of a wife or mother, it is only in a very loose sense, inasmuch as the widow or mother has no right to enforce a partition of her own motion and cannot object to an alienation by her deceased husband for consideration or even to a testamentary disposition by him. The utmost she can claim in the latter case is a right to maintenance. It is therefore practically meaningless to talk of the co-ownership of the wife in the property of her husband."

This is the first passage from the Dharma Shastras with which my friend started his speech. Sir Sivaswamy Aiyer then says:

"In his speech in the Legislative Assembly on the motion to take the Bill into consideration, Mr. Sarda wishes to make it appear that the Bill does not make any material alteration in the law governing the joint Hindu family or administer any deep cut across the Hindu law of succession and that it follows the line of least interference with the basic principles of the Hindu joint family system."

Now comes the important passage:

"Reformers of Hindu law often try to make out that the changes advocated by them amount only to a restoration of the pristine purity of the ancient Hindu law. Mr. Sarda has followed this practice and endeavoured to make out that the provisions of the Bill are in accord with the ancient principles of law which have been misunderstood or distorted by the courts. I do not propose to follow Mr. Sarda in his discussion of the old texts which contains much questionable matter. From the point of view of the practical legislator, such discussion is unprofitable. What is essential is to ascertain clearly what the existing law is and to note how far any change proposed affects other parts of the system and whether the change is in consonance with the sentiments of the people. So far as the existing law is concerned, it has been firmly established by the courts for many years in accordance with the sentiments of the community. . . . .But the views of the community are also affected by the changes which are being brought about in social and economic conditions as the result of education, facilities for communications, migration to towns, impact of western social and economic ideas and various other factors. Far from worsening the lot of the Hindu widow, the disintegration of the joint family, the growth of the testamentary power and the growth of the spirit of individualism have helped to produce a more generous outlook upon the lot of the Hindu widow and to ameliorate her position."

That is the position of the Hindu society. Wait for another 15 years and things will adjust themselves. If you try to force the issue, you will be only setting the pace back and not get what you want. The result is that so far as the ancient texts are concerned, they cannot and do not convey the meaning attributed to them. In the words of Sir Sivaswamy Aiyer, my friend Mr. Sarda has only attempted to follow the usual method adopted by Hindu law reformers and not attempted to find out the ramifications of the various branches of Hindu law. To amend a section here and there will only play havoc with the Hindu society.

Before I come to the detailed provisions of the Bill, there is one other matter to which I should like to draw attention. I shall not tire the patience of the House by reading long extracts but there is one extract from the letter of Sir James Crerar that I should like to read to the House. My friend Mr. Sarda complained about the persons to whom the Bill was referred for opinions. The last paragraph of Sir James Crerar's letter states:

"I am to state that for the purposes of the present reference, consultation of opinion has necessarily been of an exceedingly restricted character. It is essential that adequate opportunity should be given to the public to understand the bearing and consequences of the Bill and to record their opinion upon it. For this purpose, the ordinary procedure of publication and of consultation with a few selected judicial and executive authorities and even adding to this (what has not been feasible on the present reference) the consultation of particular individuals and un-official associations and organisations, is quite inadequate. A much more extensive invitation of the public opinion of all sections is imperative. In order to enlist the support of Government, the promoters of the Bill, after conducting in the interval a campaign of persuasion and instruction, should lay it before their constituents at the next election for the local legislative councils and the Legislative Assembly. If the response is in the affirmative, it would then be possible for Government to reconsider the position."

[Raja Bahadur G. Krishnamachariar.]

This is the sort of opinions that we have got. Even if it comes to counting of heads, the opinions are against my friend and not in his favour.

Then there is another matter. Before I go into that, I wish it to be distinctly understood that it is not a personal attack on my friend but duty compels me to bring it to the notice of this Honourable House and that is the position in which my friend stands with reference to the Bill and with reference to the Hindu community which is going to be affected by it. I believe, Sir, I am stating it subject to correction and in all humility and with all respect, that my friend belongs to the class of dissenters called the Arya Samajists. I have no complaint against the Arya Samaj. Its founder, Swami Dayanand Saraswati, was one of the greatest men that India ever produced. I have the highest regard for Satyarth Pakash and for his commetary on the Rig Veda and certain other books which I have tried to understand to the best of my ability. To be an eminent personage is one thing. It is one thing to start a system and it is another thing to dabble with a system from which you have come out, a system for which you have no regard, a system regarding which you have absolutely no objection to say in time and out of time that it is full of superstition and which you treat with contempt. That is the section to which my Honourable friend Mr. Sarda belongs.

Diwan Bahadur Harbilas Sarda: I deny it. I am not a member of any Arya Samaj in India.

Raja Bahadur G. Krishnamachariar: There is no Arya Samaj anywhere outside India. I have got a book. I have not got it with me now. It is published by the Arya Samaj in Ajmere. It is called Satyarth Prakash. It is published both in Hindi and in English. In the cover of the former book there is the signature of my friend. There is no portrait. He is referred to as the Vice-President of the Arya Samaj in Ajmere. I may be absolutely wrong. If I am wrong I shall humbly apologise but not before producing that book.

Diwan Bahadur Harbilas Sarda: I shall explain my position.

Raja Bahadur G. Krishnamachariar: I submit that no member of the Arya Samaj is entitled to claim that he is a Hindu in these matters. I am coming to that Hindu religion immediately. Firstly, one abuses the Hindu religion, then calls himself a Hindu and, what is worse, culminates his course by trying to exploit that Hindu religion by new-fangled and ill-advised ideas regarding the constitution of Hindu society. My friend has no mandate, and his constituency has not asked him to bring forward this Bill. After all, what principle of legislation does he conform to in bringing forward this Bill? There is no demand by the community most affected. He has no mandate from his constituency, and he brings the Bill forward simply because of the accident of his being a Member of the Assembly. (*An Honourable Member*: "He is encouraged by the success of the Sarda Act.") It is not fair that such a thing should be done. I shall quote a precedent. Sometime ago there was a Bill introduced by my friend, the late Mr. Seshagiri Aiyar, in order to amend certain portions of the law of inheritance. After a good deal of fight he succeeded in passing it through this House. Then the Bill went to the other House. While there, Sir Maneckji Dadabhoy sponsored the Bill. He made a speech, and then it was adjourned. After that, the proceedings do not show what happened, Sir Hari Singh Gour, who fathered

that Bill a little later said, as was reported in the proceedings, that the Council of State did not like that a non-Hindu should sponsor a Bill of that nature, and the Honourable Sir Maneckji Dadabhoy, taking that hint, abandoned his further attitude in connection with that Bill, and the Bill got lapsed; and then my friend, the father of all helpless social reform Bills, took it under his wing and he is now trying to nurture it. Sir, that is the convention that has been accepted even in this Legislature and it will not do for one who has not got any regard, esteem or reverence for those Rishis of old who were mentioned by my Honourable friend, Mr. Amar Nath Dutt, to come and trouble himself with these laws.

There is another difficulty. One should be a thorough expert in what is called the Purva Mimansa, which lays down the rules of interpretation. There are one thousand aphorisms, and without mastering all these you can never say what the Hindu law lays down or what the result of this so-called conflict of Dharmashastras is. I suppose my friend claims to be neither a student nor a master of these Shastras. Coming to the definition clause of his Bill, we find that a widow "includes the widow of a person who at the time of his death professed the Hindu, Jaina or Sikh religion". I do not know why he abandoned the Buddhist community. Now why rope in the unfortunate Jainas or Sikhs? The Jainas have got a separate law, and where there is no written law they have got customary law. Why rope these people in? Then, more important than that is, what is the Hindu religion? Who can define that? That is the first difficulty. The next difficulty is that it is said that the widow will be entitled to the share that her husband had during his life time. Now I remember to have read some Hindu law in the olden days and I hope I am not stating it wrongly. The rights and disabilities of a Hindu co-parcener are determined not in advance but at the time of the partition. Taking the family as it exists at the time of the partition, the rights and liabilities in respect of co-parceners are determined. Now my friend says that she shall have the right that her husband had during his lifetime. What about the liabilities? Then there is the question of adoption. Then there is such a thing as re-vesting by means of an adoption proper. What is going to be the result of that? What is the result of the re-marriage of a Hindu widow? There is section 2 of the Widow Re-marriage Act; how is this going to be affected? You have not asked for the repeal of that Act; and even if you declare that the widow should lose her rights, there is nothing to prevent her alienating the estate to her prospective husband and then going and re-marrying tomorrow because until she married she would have an absolute right over this estate. It is these things that led such a very very moderate man like Sir Sivaswami Aiyar to recommend to withdraw such a Bill and to have it redrafted.

Those, Sir, are in short the difficulties with which the practical administration of this Bill is confronted, and it would simply be adding confusion to the administration of Hindu law. No false sympathy and no appeal to time-worn arguments and no false analogy with regard to other systems of law ought to weigh with this Honourable House in attempting to interfere with such an age-long institution, and such attempts, as my Honourable friend, Diwan Bahadur Harbilas Sarda, has himself admitted in another connection, are sure to end in signal failure. I would respectfully submit to this House before I sit down that this Bill is mischievous in its operation, and that therefore it ought to be rejected and should not be allowed to proceed to a Select Committee.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, the present Bill does not concern the other nationalities, and it is not for me to oppose or to applaud the provisions of this Bill. Of course it may be said that so far as the rights of a widow are concerned, every progressive society ought to safeguard these, and I am bound to that elementary provision. When however I look to the provisions of the sections and especially the definition in section 2—which says that "Widow includes the widow of a person who at the time of his death professed the Hindu, Jaina or Sikh religion", I do not quite understand what is meant. I would ask my Honourable friend, is the Sikh religion a sub-class or sub-section of the Hindu religion. Is also the Jaina religion section of the Hindu religion? I would also like to know whether he would divide the present Hindu religion as it is being divided—as we hear of this being done in recent times—in this way, that Hindus are something separate from the depressed classes or that the higher classes and the depressed classes are to be put under the same Hindu religion. If my friend can explain all that, I think much controversy might be avoided. Those of my friends who are Sikh or Jain might withdraw their objections, or they might conform to the wishes of my Honourable friend. My difficulty is only that much.

Then, as regards the division of property, there are three schools under the Hindu law, the Mitakshara, the Dayabhaga and the Mayuka. In all the three schools the rights of widows are differently defined. I should like to know whether my friend wants to restrict this Bill only to the Mitakshara law or does he want to extend it to other systems of Hindu law? These are my difficulties which I would like my friend to explain. Perhaps our votes will depend upon that explanation.

3 P.M.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I wish to speak on this motion not from the point of view that has been taken by some Honourable Members who have opposed this Bill. I have other grounds which I want to put before the House whether this Bill should go to the Select Committee or not. Sir, the question which has been raised very strongly and which has emanated from leaders of several sections of the Hindu community is that this legislation should not take place because this is a social reform to which the country or the panchayats or other bodies should give support and make proper legislation for themselves. Sir, they are in their own way correct in putting forward that view but I do not belong to that school, which is not a progressive one. I do belong to a school which has taught me to enter into such questions and share the social legislation wherever it is very necessary and desirable according to the present environments and present associations. Sir, I do not think that on this score the Honourable Diwan Bahadur Harbilas Sarda will have any misgivings regarding me. He knows fully well that when he introduced the well-known Sarda Bill, I was a party to it. But, Sir, my point here is not that we have no jurisdiction to go into these questions. My point here is not that we should not at all legislate on any question which goes to reform the social status of the people. My point here will be that when we come up with any such legislation, the country should be behind us and we should carry out this sort of legislation in a very careful and clear manner. For my own part I will presently show that, looking at the question from the point of view of a lawyer, one would say that the provisions of that Bill are very complex and complicated and that they not only do not meet the principle which is in the mind of the Honourable the Mover himself but that it goes to

revolutionise, framed as it is, the fundamental principles of the Hindu law. Sir, before I reach that stage, I must also remind my Honourable friend that if he cherishes strong sentiments for the help of the widows, I am no less an advocate for their help. I have as much sympathy as he has for them and on that point also there ought to be no misgiving, either here or anywhere, that I am against the help that can be given to helpless widows. But if you give help you should give it in a manner which is consistent with the rights of the other co-parceners. You are not going to revolutionise the Hindu Law and make the position of the widow better and reverse the position and deprive the co-parceners of their rightful due. Consistently with that position, let any legislation be framed and I will be a party to that legislation. But as I read the present Bill, it appears to me that the object or the principle of it is not being understood properly. I object to the way in which the Bill has been framed, and I am supported in this by the opinion that was quoted by the last speaker when he said that one of the highest authorities has said that when you are making this Bill you are revolutionising and affecting the interests of the co-parceners. Now, Sir, coming directly to this point I would say that in the framing of the Bill there lies a legal defect which takes away or affects the rights of the sons and the grandsons. To put it very clearly, what I mean to say is that an attempt has been made in the Bill to give away all the share of the husband to the widow and leave nothing to the sons. I must say that this point attracted my attention, as it has also attracted the attention of other authorities, as is evident from the opinions that have been received as a result of the circulation of the Bill. Now, when I read it first, I thought it proper to ask my Honourable friend privately what he meant by this, whether he was affecting the interests of the sons and the grandsons. To be fair to him, he very readily replied to me that that was not his intention and he has also said the same thing to-day. But that may be his pious intention. But when I read the two clauses they do actually affect the interests of the sons. Therefore, I think it would be a wise policy on his part if he takes up my suggestion, nay, the suggestion of one of the highest authorities, which has said that this Bill requires recasting and reframing, and then bring it to the House. That, I think, will be a very wise advice to the Diwan Bahadur. I am sorry to say that my Honourable friend sometimes is very assertive and very determined and does not yield to anybody. But I have much regard for him. I have always shown great regard for his intellect and for his learning, but one thing is quite clear, that he is not a lawyer. He is a layman in that direction. He may have consulted many lawyers, but on the question of the interpretation of these clauses he ought to have taken the opinion at least of those lawyers who have incorporated their opinions in the report.

I will now come directly to the question. So far as the giving of the share for Hindu widows is concerned, the preamble says:

"A bill to secure a share for Hindu widows in their husbands' family property."

It does not define the share. The Hindu law divides the property on partition in particular shares and those shares are not shown in the Bill. Apart from it, I come to clause 3 which reads thus:

"(1) Where the husband of a widow was at the time of his death a member of a joint family, the widow shall be entitled to such share of the joint family property as her husband would have been entitled to, under the Mitakshara law had a partition taken place in his life-time and may sue for partition."

[Mr. Lalchand Navalrai.]

The law at present is this; in a joint Hindu family co-parcenary property when it is divided amongst the co-parceners goes first of all to the co-parceners—brothers. As an illustration, take two brothers, "A" and "B" forming a joint Hindu family. "A" has got two sons and a wife. "B" only one son. How will the property be divided in the life-time of A and B? The property will not be divided into 5 shares but two in half and half to A and B. At that time the husband in question will get half. No doubt when he afterwards divides it with his sons, they have also shares from their own father's share. According to this Bill, the widow shall be entitled to *such share* of the joint family property as her husband "A" would have been entitled to, under the Mitakshara law at the time of the partition in his life-time. That as shown above, will be half, and if all that goes to the widow, the sons will go to the dogs. That is how this clause reads. Therefore, this Bill has not been framed happily. Proceeding further, you find another complication. My friend admitted that there was objection from the Hindu public that, whatever share goes to the widow could not be given absolutely to her, because on her death it goes to her heirs and not to the heirs of her husband's family, if given absolutely to her. Therefore, there was very cogent objection to that. My Honourable friend has removed that objection by taking away the word absolutely from clause 3 (1). But what about clause 3 (2), where the husband of a widow was not at the time of his death a member of a joint Hindu family? The widow shall take all his property absolutely according to this clause. Is it not a worse position? In such a case the property belongs to the husband absolutely, it is his own property, and devolves, according to Hindu law, on his death on his sons, though in his life-time he may dispose of it in any way. If it is legislated to give it to his widow, his sons get nothing. Again when the family is joint the property devolves upon the widow as a woman's estate as proposed now, whereas if it devolves from her husband it becomes her absolute property. These are the anomalies and difficulties in the way of this Bill which cannot be removed in the Select Committee. It is actually changing the very fundamental principles of the Hindu law.

Diwan Bahadur Harbilas Sarda: No.

Mr. Lalchand Navalrai: My friend is very assertive and he will remain so to the end. For my part, I say, "Yes". These difficulties should be removed and the share decided and defined for the widow. If that is done he will have my support. At present I cannot support this Bill.

Sir Lancelot Graham (Secretary, Legislative Department): Sir, I think it is desirable at this stage of the debate to state the position of Government and its attitude towards this Bill. The attitude of Government is as it was laid down at an earlier stage of this Bill, which I find was on 21st January, 1930. The Honourable the Mover of this Bill was then informed that he would not get the support of Government for his motion unless he had satisfied the Government that there was behind him a very strong majority of his own community. Now, Sir, I have been looking for traces of that very strong majority. Take the debate to which we have listened today. The House has so far been addressed by apart from the Honourable the Mover, three of the Honourable Member's community and two Muslim gentlemen. The first Muslim gentleman, I gather, tendered some support on the ground that he was a gentleman and a Barrister. The second, Mr. Azhar Ali, left me in a state of confusion as to whether he is opposing or supporting the motion. I gather he was mainly asking me for information. Of the three Honourable Members of the Honourable Member's community who have so far addressed the House, all have spoken against the measure. I find it difficult, therefore, to assume that in this House at any rate there is any large measure of support for this Bill.

Mr. S. G. Jog: Many Members have still to speak.

Sir Lancelot Graham: That is quite true, but I am very much impressed by a fact that the debate has been a thoroughly listless debate, with no heart in it, no enthusiasm on the floor of the House, and if it is permissible to mention the galleries, a singular emptiness in the galleries. I remember the days when my Honourable friend opposite was asking the House to support the Sarda Marriage Bill when there was tremendous excitement on the floor of the House and the galleries were packed. You could not walk along the streets of Simla, I will not say, without being accosted, without being almost assaulted by legions of ladies, and their shrill slogans echoed down the Mall. Nothing of the sort happened to me when I came to this House today. I find no indication of any excitement about this Bill whatever.

Now I proceed to the Opinions. The Honourable Member's first citation was not, as one expected, from a Member of his own community but from a Muslim High Court Judge, and from that High Court Judge's opinion he took a sentence which was to the effect that it must be admitted that the position of a widow in a Hindu family, except where she happens to be a sonless person, is one of helplessness, and we were led to believe that here was very strong support for the Bill. In fact I imagine that this was one of the 96 opinions recorded in favour of the Bill, as against 45 recorded against it. Now, Sir, I take the first sentence of that opinion and how do I find it reads?

> "This Bill seeks to introduce a revolutionary change in Hindu law and is likely to evoke widespread opposition at least in these provinces."

I am inclined to say that if that makes 96, it also makes 46; it is quite as much against the Bill as for it. The Honourable gentleman himself certainly displays his sympathy for the Hindu widow and would like to do something for her. He is not alone in that attitude; we all share it. But the question is whether this is the right method and this is the right time, and that is where we join issue with the Honourable the Mover of this Bill.

My Honourable friend said that this little sheaf of opinions was not as large as it ought to be, and I think he indicated that that is the fault of Government. I will not plead guilty, and I do not suppose my colleague in the Assembly Department pleads guilty either. If people are not interested, you cannot make them write opinions to Government about Bills. If the Honourable gentleman wants to convince us that he has the support of his community behind him, he must take practical means of showing us that support, and we cannot be expected to guess it. As I have said, we should want a great deal more than the majority of opinions recorded on the circulation paper, before we felt it possible to move in support of a measure of this kind and of so revolutionary a nature.

[Sir Lancelot Graham.]

The Honourable Member has tried, as he did before, to minimise his Bill by saying that it was only a very little Bill and it really made very little alteration in Hindu law. Apart from his bias in this matter, I join issue with him on the subject of the law, not on my own account but by quoting one who I expect will be recognised as a person entitled to speak. I quote from the Advocate-General, Madras, who said:

"A lawyer, looking on the Hindu law as a system from the scientific point of view, may well feel apprehensive that the Bill may produce anomalous results and have the effect of converting Hindu law into a mongrel system without any basic principles to guide us. Piecemeal legislation on any particular topic in the field of Hindu law which appeals to a particular legislator is sure to bring about inextricable confusion."

As I have said, I do not think it is necessary for me to attack the Bill either in principle or in detail. The attitude for which Government stands is that they must be convinced that there is a very strong feeling in the Hindu community before they will lend any support to proposals to interfere radically with the Hindu law. On those grounds I on behalf of Government oppose the motion.

Mr. A. Das (Benares and Gorakhpur Divisions: Non-Muhammadan Rural): Sir, I rise to support the motion that the Bill be referred to Select Committee. Various objections have been raised against this Bill and to my mind most of them are not to the point. As a recent Member of this Assembly, I bow to the opinions of my older friends who have been here for a longer period; but so far as the objections raised about the various provisions of this Bill are concerned, I submit they are rather premature. What we have here to consider at present is only the principle to which this Bill commits itself, *i.e.*, whether the position of a widow in a joint Hindu family is deserving of some consideration or not. And I think most Hindu gentlemen, who have had experience of joint Hindu families, would or ought to agree with me when I say that the position of a Hindu widow in a joint Hindu family is really very bad and legislation has to be effected in order to improve her condition. In every country besides India and also among most of the other communities in India, the widow's position is not half as precarious as in the Hindu community. (Interruption by Dr. Suhrawardy.) I think that the opinions of those Honourable Members who do not belong to this community are entitled to much weight, although I am obliged to my Muhammadan friends who have helped us by sympathising with the object of this Bill.

Sir, I consider myself as a rather liberal member of the growing Hindu community. What has happened in my experience of the last 30 years as a lawyer is that in the Gorakhpur district and round about, the position of a Hindu widow after her husband's death is very bad. When a property stands in the name of her husband and other co-parceners, she is entitled to some income when she is under the protection of her husband, but no sooner is the husband dead, than her rights are often denied to her by the other co-parceners, because in the majority of cases you will see that there is no real joint family system. Although landed property is joint, as a matter of fact in nine cases out of ten, in joint Hindu families each member is earning separately and spending separately. So this idea of a common purse and a common income and common expenditure is wanting except as far as the joint landed property is concerned, which is jointly

managed. Most members earn separately and spend separately, and therefore as far as these families are concerned they are not strictly speaking joint Hindu families. But in law they are considered as joint Hindu families and there the position of a Hindu widow is to my mind very bad, and if anything can be done to ameliorate her condition, I think that legislation should receive the sympathetic support of this House. To my mind this legislation has been long overdue. Government, of course, say that, unless the majority of the Hindus want legislation in that direction they will not give their support. But what is there to show that the majority do not want it? Among the printed opinions elicited, nearly half are in favour. Then there is another thing which I may point out that we males are trying to adjudicate about the rights of women. Among these 96 opinions there is one from the Women's Indian Association at Tinnevelly. That is printed at page 43 and that is the only opinion given by women and is in favour of the Bill. They have unreservedly supported Mr. Sarda's Bill.

Then there are various objections raised as to the phraseology of the Bill which, I submit, are rather premature. If we once admit the principle for which the Bill stands,—and that is to give relief to widows—then I submit there should be no difficulty in altering the phraseology of the Bill or removing other technical defects from the Bill to which some Honourable Members referred.

Another objection that has been raised is that we are trying to arrogate to ourselves a position superior to what our old Rishis held. I think there is too much of this thought. When we want to reform ourselves, we never care to refer to the opinions of the old Rishis, but where the reforms of others are concerned, then we always go back to old Rishis and quote them. As a matter of fact, numerous legislative reforms have been effected by the Privy Council in their various decisions, with which most of the lawyer Members are familiar, in which the texts of the Hindu law have been twisted this side and that side in order to meet the present day social conditions. Then there has been also legislation regarding the Sati rites. At that time it was thought that Hindu opinion was fairly in its favour, but was that so? Then we have abolished various rites, and to say that those things which were considered necessary 500 years ago are necessary to-day is, I submit, an argument which will not be accepted by any sensible person. As my friend Dr. Suhrawardy said, legalise widow marriages. I am glad that has been legalised, and quite rightly too. Therefore, my submission is that this is a reform which is very much needed, and I submit that it has been before the public for a very long time. Nearly half of the opinions are in favour of this reform, and if there is any particular clause to which objection is taken, it can be altered in the Select Committee. I hope, therefore, that all the Hindu Members and also the majority of Muhammadan Members will sympathise with the present conditions and accept the motion to commit this Bill to a Select Committee.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I did not intend to speak on this motion because I thought there was very little to be said against it, but I have been surprised at the attitude displayed by my friend Sir Lancelot Graham who has given us his sympathy but not his vote. If that were all I should say nothing against it, but he comes forward and propounds a most astounding proposition. He says that the Government would only support a measure in

[Sir Hari Singh Gour.]

which the bulk of the community of the Honourable the Mover of this motion supports the Bill. Sir, my friend Sir Lancelot Graham must be suffering from a short memory. What is the history of the British Government in India? As far back as the early fifties, the Government placed on the Statute Book a measure known as the Removal of the Caste Disabilities Act. Had that the support of the bulk of the Hindu community? It had not. The Government placed on the Statute Book a measure legalising the marriage of Hindu widows, and earlier in the day the Government took bold action in suppressing Sati and infanticide in the teeth of opposition from the orthodox Hindu community. Only the other day when the Transfer of Property Act was on the legislative anvil, cases of their Lordships of the Privy Council for the last 50 years were overruled by one section, section 8 of the Transfer of Property Act. Their Lordships of the Privy Council in the early fifties had laid down that a gift to a Hindu family shall convey only a limited interest. We have enacted that under section 8 of the Transfer of Property Act modifying clause 2(*d*) of that Act, whether the donee be a male or female it will pass an absolute estate. That, I submit, is some of the history of legislation affecting Hindu law from the earliest days down to this day. Does the Honourable the Legal Secretary seriously contend that any one of these measures had the support of the bulk of the Hindu community? I ask him to quote chapter and verse in favour of the amendment of the Transfer of Property Act to which I have referred if it had the support of the bulk of the Hindu community of this country. Sir, when my friend does not wish to support a motion, he damns it with lukewarm praise. He tells us that his sympathy is certainly in favour of the motion but there are insuperable impediments in the way of his support. The insuperable impediments are the Government's own timidity to face a piece of legislation which justice and equity demand should have been placed on the Statute Book ages ago. (Applause from the Nationalist Benches.) What is the position, Sir, of a Hindu widow?

Sir Abdullah Suhrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): The days of strong Government are over.

Sir Hari Singh Gour: I am quite sure my friend Sir Abdullah Suhrawardy is echoing the sentiments of this side of the House when he says that the days of strong Government are over. The Government are only strong when they pass repressive laws, but the Government are singularly weak when they have to deal with the question of social reform.

Mr. Amar Nath Dutt: Is that the function of the Government?

Sir Hari Singh Gour: Well, Sir, I wish to say, and I say it with all the emphasis that I can command, that no piece of social legislation, however trivial, however important, will ever receive the consensus of public opinion in favour of it, and if such a time should come, shall we ever appeal to the occupants of the Treasury Benches for support? We shall carry that measure over the heads of the occupants of those Benches. It is because, Sir, we are appealing for justice, we are appealing for fairplay, that we are asking Honourable Members opposite to support this motion. They tell us that five Members of this House have spoken, three of them are more or less against it, and two of them are in favour of it. Surely, Sir, questions of such importance cannot be decided by the counting of

the heads; questions of such importance can only be decided by placing your hand upon your heart and asking yourself whether this is a righteous or unrighteous measure. I do not care if the Honourable the Mover of this motion had not even two men behind him; I do not care if the solid phalanx which Government can command had been opposed to his measure. Righteousness and truth shall prevail, and whether this motion is passed to-day or thrown out, it requires no inspired prophet to say that this motion will hereafter come and be acclaimed by the successors of this reactionary House.

Mr. Amar Nath Dutt: So long as there are non-Hindus.

Sir Hari Singh Gour: Sir, I have been told by Honourable Members that this is a measure which trenches upon the sacred law. I do not profess to have made as deep a study of Hindu law as my friend sitting behind me, but I too have devoted not an inconsiderable portion of my life to the study of that subject. And the impression that has been left on my mind is that so far as Hindu law is concerned it was never intended to be a part of Hindu religion. We are all told that the three dominating schools of thought controlling the Hindu law are the Mitakshara, the Dayabhaga, and the Mayukha. Who were the authors of the Mitakshara, the Dayabhaga and the Mayukha? Were they divine beings or semi-divine, or were they not men like ourselves and regarded as such by the most orthodox section of the Hindu community? Vigneswara, Yagnavalkya, Jimuta Vahan and Pandit Nilakantha—they were all lawyers like ourselves or students of law, and Hindu law and Hindu writers and Hindu sages did not regard these people in the light of religious teachers. The lawgivers of the mediæval age who laid down the laws which are administered by the British Courts of justice were secular writers, and that being the case, I cannot understand why these laws should be encircled with a halo of sacredness by friends on this side who wish to oppose the motion. If they wish to do so, the most straightforward thing for them to do is to stand up and say, "We are possessed of a deep-rooted conservative instinct in our constitution; for ages past our civilisation has been a static civilisation; we do not like new things and we are afraid of making a plunge for an improvement the consequences of which we do not know. Therefore, we are opposed to any change, and the change which the Honourable the Mover of this motion wants this House to be committed to is a change which is opposed to our conscience". That I submit would be a much more straightforward course than to draw a red herring of sacred law, of divine law, of divine sanction across the trail and oppose the very elementary principle which underlies this Bill. Some of my legal friends have got up and said, "Oh, section 2, section 3, clause 3 and sub-clause (3) are defectively worded". I grant that it is. If it were not defectively worded, the Honourable the Mover of this motion would have asked the House to take the Bill into consideration and pass it here and forthwith. It is because this Bill is defective in its draft and perhaps also in its purpose that he wants this House to send it to a Select Committee which will put it into shape, and if there is any drafting defect or any other defect which the Honourable Members of the Select Committee consider it necessary to go into, they will do so. (*An Honourable Member*: "Let the whole thing be recast.") My Honourable friend at the back says, get the whole Bill recast. I am quite sure that my Honourable friend the Mover of this motion would invite my friend Mr. Lalchand Navalrai to sit on the Select Committee and give us a helping hand towards the re-casting which he foreshadows.

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[Sir Hari Singh Gour.]

Now, Sir, we have got therefore to go to the rock bottom of this case. Everybody agrees and no reasonable man can deny that the lot of the Hindu widow, and for the matter of that, of Hindu females, in the Hindu society, is one of abject dependence. That being the case, do you or do you not approve of a movement in favour of granting these helpless and speechless mothers and daughters and sisters of yours some elementary rights of humanity? Cast your eyes round your own household. Think of what sufferings your womenfolk have undergone and are undergoing. Have you got no human hearts to feel pity for them? You get up here and fling stones at one who wishes to ameliorate the condition of your mothers, of your sisters and of your daughters. (*An Honourable Member*: "Not wives.") (Laughter.) I say I should be surprised and I am surprised that there should be any one in this House so lost to human reason and the elementary instincts of human sympathy as not to approve of the broad principle of this Bill. And I am sure that the Honourable occupant on the Government side will reconsider his position when he finds that the bulk of the Opposition Benches are in favour of the Bill.

One more word and I have done. The Honourable Member on the other side twitted the Honourable the Mover of this motion by stating that he had quoted 96 opinions as in his favour and 45 against it, and he said that there was one more opinion against the Bill. Sir, I have always regarded this House as the forum of public opinion and its Members as the peoples' plenipotentiaries, and I say I do not care whether 96 or 960 opinions are recorded for and against this Bill. But if the Members of this House, if the majority of the Members of this House feel convinced that this is a measure of progressive reform and is urgent and calls for prompt action, let them give it their support. That support will I am sure be conducive to the enlargement of female rights; it will be conducive to the greater happiness of their own womenfolk, about whom they must think within themselves when they cast their vote against this measure. Sir, I support the motion of my Honourable friend.

Some Honourable Members: Let the question be now put.

Mr. R. S. Sarma: (Nominated Non-Official): Mr. President, I would rather have kept quiet and not spoilt the effect of the brilliant eloquence of the previous speaker, but the very wrong and misleading inference regarding the attitude of the Hindu Members of this House drawn by my Honourable friend Sir Lancelot Graham leaves me no option as a Hindu myself but to get up and say how strongly I support the motion placed before the House by Diwan Bahadur Harbilas Sarda, and also to tell the House that there are many others outside who like myself strongly feel in favour of this motion. I am, however, very glad to learn from Sir Lancelot Graham that Government have not committed themselves one way or the other in this matter, but that they would wait and see what is the strength of Hindu opinion on this matter. I do hope that my friend the Diwan Bahadur will take the hint from Sir Lancelot Graham and try to get up some demonstration, which alone will convince him about the strength of opinion on this matter.

Mr. B. Das: Invite him to Madras.

Mr. R. S. Sarma: The last demonstration was organised by the countrymen of Mr. B. Das, most of whom we found in Simla. When Government are going to take a decision in this matter, I do hope that

they will not throw their weight with the old, senile orthodox pandits, who, whenever an honest attempt is made to reform society, trot out old and worn out arguments in support of their contention.

Sir, the old and venerable Raja questioned the right of the Diwan Bahadur to speak on behalf of widows. I question his right, in view of his age, to speak on behalf of Hindu widows, because to my mind if the ordinary span of life of a Hindu is as long as that of the Honourable Raja, there will be no question of widows in this country and the problem would have been solved. The Honourable Raja made a great point of the fact that the Diwan Bahadur held certain views contrary to the views he now holds on these matters, and he took 40 minutes of the time of this House to show how inconsistent his views were with the views he now holds. To my mind, it only shows, if it shows anything at all, that the Diwan Bahadur is progressive. It shows that the Diwan Bahadur, unlike the Raja and people like him, has only added wisdom to his age. Sir, in conclusion, I would most strongly urge that when the voting takes place on this motion, Members of the House will not be a party to the mean and malicious attempt to deprive the Hindu widow of her rightful place in the financial scheme of the family.

Sirdar Harbans Singh Brar (East Punjab: Sikh): Sir, I do not think any sensible man would oppose the motion of Diwan Bahadur Harbilas Sarda. The Raja Bahadur quoted at great length from old speeches and from the opinions given when this measure was circulated. These opinions of the ancients of the type of Raja Bahadur are like the stones which are a valuable possession of the Archæological Departments and never will melt. People like the Raja Bahadur do not move with the times. When the Child Marriage Restraint Act was passed they opposed it and they did not want the age for marriage to be placed a bit too high. That is the only thing we have heard from these old civilisation masters where they preferred young to the old. The womanhood of this country must be helped for sometime to come to the best of our power and ability. It is very unfortunate that the widows should remain unprovided for and at the mercy of the relations of the deceased husband. We cannot expect the relatives of the husband to look after the widows after their husbands' death. In many cases the step children have no regard for the mother's welfare and it is only fair that widows should be adequately protected in time of need. The question of what the share should be, whether it should be for life or absolutely is a matter which the Select Committee can go into and when the report of the Select Committee comes before the House, the House can amend it but no one with any grain of common sense in him can oppose the principle that the widows should have a share in the husband's property. With these few remarks, I support the motion.

Mr. C. S. Ranga Iyer: (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): I rise to support the motion of my Honourable friend Diwan Bahadur Harbilas Sarda. Before making a long speech on the subject . . .

Mr. President You have only got three minutes.

Mr. C. S. Ranga Iyer: I should like to say that Mr. Sarda has been a living monument of social service. His life has been a sermon on social reform, and though his name does not find a high place among the decorations of the world, so far as India is concerned, I dare say that Mr. Sarda will be remembered so long as social superstitions exist and

[Mr. C. S. Ranga Iyer.]

until they are abolished. At present, he has once again taken up arms against a sea of trouble, including my friend Mr. Krishnamachariar, who represents on the other side the forces of orthodoxy. He is one of those conservatives, extremely anxious to keep back progress. He does not want that India should be dragged along the current of modern ideas. He is one of those true conservatives who want to conserve and preserve the genius of the Vedas. Today we have Mr. Sarda on one side and Mr. Krishnamachariar on the other, representing the forces of progress and the forces of reaction. This cannot be decided by a vote of this House, as to which force is going to succeed. My friend and leader Sir Hari Singh Gour has already had his fling at the Secretary of the Legislative Department. He has his head and heart with the motion but not his vote. I wish that on these occasions the Government did not vote at all. In this matter I beg to differ from the Leader of my Party. Or rather I think he would agree with my view that in these democratic matters, which essentially concern the people of this country it is very desirable that the Government, who are outsiders so far as social matters are concerned, should keep out and take a sympathetic view such as Sir Lancelot Graham was willing to take. I think in this matter only the elected Members should vote, because they after all have got to give an account of their conduct to the country and also the Indian nominated Members like Mr. Sarma who, though they do not have much of a constituency, have a sort of responsibility as newspaper editors. I for my part think that the nominated Members, whether Indian or European, should not take part in the voting on this motion.

Mr. President: Order, order. I now call upon Mr. Ranga Iyer to move his adjournment motion.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, before I move the motion of which I have given notice, I should like to inquire whether any other opportunity will be given to the House to discuss the important issues underlying it, in circumstances more favourable to a comprehensive discussion than those offered by a motion for adjournment. On a definite reply to this question depends my further attitude in this matter.

4 P.M.

The Honourable Sir George Rainy (Leader of the House): Sir, in reply to the question put by my Honourable friend, I should like to inform the House that I have been in communication with the Leaders of Parties on the Benches opposite, and I have agreed on behalf of Government to give up Monday for the discussion of a Resolution to be moved by my Honourable friend, Sir Hari Singh Gour, raising the general issues arising from the Government policy which, as my Honourable friend pointed out, underlie the particular matter to which he wished to draw attention. I trust that that will satisfy my Honourable friend.

Mr. C. S. Ranga Iyer: Sir, I am very satisfied with the reply that the Honourable the Leader of the House has given, and, in these circumstances I do not propose to move my motion.

Mr. President: Very well. I think the House will have to be adjourned now, unless Honourable Members desire to go on.

(Cries of "Adjourn", "Adjourn".)

The Assembly then adjourned till Eleven of the Clock on **Wednesday, the 27th January, 1932.**

LEGISLATIVE ASSEMBLY.

Wednesday, 27th January, 1932.

The Assembly met in the Assembly Chamber of the Council Hous at Eleven of the Clock, Mr. President in the Chair.

QUESTIONS AND ANSWERS.

COST OF THE RAILWAY COURT OF INQUIRY.

65. *Dr. Ziauddin Ahmad: (*a*) Will Government be pleased to state the total cost of the Court of Inquiry direct and indirect up to the end of January, 1932? What would be the total cost by the time the work is finished? When will the Court finish its work?

(*b*) Was the Court appointed for the satisfaction of Government, the employees of the railway, or the public?

(*c*) Are Government aware that the railway employees have no confidence in this Court?

(*d*) Have Government seen the statement of the President of the All-India Railway Federation about it?

The Honourable Sir Joseph Bhore: (*a*) The Court of Inquiry is expected to finish its work by the end of this month. The total cost of the Court is estimated at Rs. 46,000.

(*b*) The Court was not appointed in order to satisfy the claim of any particular interest, but in order to obtain an impartial report on the matters referred to it.

(*c*) and (*d*). No.

Dr. Ziauddin Ahmad: Have not the Government seen the statement issued by the President of the Railway Federation?

The Honourable Sir Joseph Bhore: My reply to that is, "No."

Dr. Ziauddin Ahmad: Then I will send a copy of it for the benefit of the Honourable Member.

The Honourable Sir Joseph Bhore: I should be very much obliged to the Honourable Member.

GRIEVANCES OF MUSLIM WATERMEN ON THE NORTH WESTERN RAILWAY.

66. *Dr. Ziauddin Ahmad: (*a*) Has the attention of Government been drawn to the article on "Muslim Watermen in the North Western Railway" published in the *Eastern Times*, dated the 12th December, 1931?

(*b*) What action, if any, have Government taken to remove the grievances?

Sir Alan Parsons: (*a*) Yes.

(*b*) The matter is within the competence of the Agent and I am bringing it to his notice.

APPOINTMENT OF INDIANS TO HIGH OFFICES AND TO ADVISORY COMMITTEES ON RAILWAYS.

67. ***Khan Bahadur Haji Wajihuddin:** Has the attention of Government been drawn to the leading article published on page 2 of the daily *Hamdam* of Lucknow in its issue, dated the 11th December, 1931, under the heading "*Railon ka naqis intizam kabil islah hai*" and will Government please state whether they propose to consider the advisability of appointing Indians in the high offices and to make nominations to the Advisory Committees (on the various lines of the Railways) on the lines suggested in the said article? If not, why not?

Sir Alan Parsons: Government have not seen the article referred to.

ABOLITION OF THE OFFICE OF TRANSPORTATION SUPERINTENDENT, GREAT INDIAN PENINSULA RAILWAY AT NAGPUR.

68. ***Khan Bahadur H. M. Wilayatullah:** (*a*) Will Government be pleased to state when the office of the Transportation Superintendent, Great Indian Peninsula Railway, was created at Nagpur?

(*b*) Is it a fact that this office was created by splitting the office at Bhusaval which previously did the present transportation work?

(*c*) What is the total cost per year of this office including the amount spent over house rent for the residence of the staff and for housing the office?

(*d*) Have Government considered the possibility of abolishing this new office in these days of financial stringency?

(*e*) Do the railway authorities propose to make inquiries as to whether the work in the new office is extremely light?

Sir Alan Parsons: (*a*) With effect from the 1st July, 1930.

(*b*) Yes.

(*c*) The total annual cost is estimated to be about Rs. 65,000 and is more than covered by savings effected elsewhere in the Transportation Department of the Great Indian Peninsula Railway.

(*d*) It would not be economical to do so.

(*e*) No.

DISPOSAL OF INTEREST ACCRUING ON SAVINGS BANK DEPOSITS AND WAR BONDS HELD BY MUSLIMS.

69. ***Khan Bahadur H. M. Wilayatullah:** (*a*) Is it a fact that orthodox Muslims did not draw the amount of interest accruing on their Postal Savings Bank deposits and War Bonds?

(*b*) Did Government make inquiries from leading Muslims and Muslim institutions to ascertain their wishes regarding the disposal of the amount?

(*c*) Will Government kindly state what the general opinion was regarding the disposal of the amount? Has the money been disposed of accordingly? If not, will Government kindly state what they intend to do with the amount?

The Honourable Sir George Schuster: (*a*) Government understand that some Muslims do not draw interest on postal savings deposits and Government securities.

(*b*) Yes.

(*c*) Divergent opinions were expressed and Government decided to continue the present practice in the absence of any response to the offer to constitute a special fund. I would refer the Honourable Member to Mr. Brayne's reply to the Honourable Sir Haroon Jaffer's question No. 118 on the 12th September, 1927, in the Council of State, which reply indicates the action which Government were willing to take.

Dr. Ziauddin Ahmad: Is it not a fact that the exact amount under this head is shown by Government in the Budget or at some other place? What is the sum standing in this account?

The Honourable Sir George Schuster: I shall be glad if my Honourable friend will give me an opportunity to inquire into this matter. According to my recollection, there is no place in the Government accounts where this sum is shown.

HOSPITALS FOR BRITISH AND INDIAN TROOPS AT KAMPTEE.

70. ***Sir Hari Singh Gour:** (*a*) Will Government be pleased to state the number of Indian and British troops stationed at Kamptee?

(*b*) Are there two separate hospitals there—one for the British and another for the Indian troops?

(*c*) If so, what is the cost of maintenance of each?

(*d*) How many indoor and how many outdoor patients were served in each hospital during the last two years?

(*e*) How many beds are maintained in each; and how many of them are occupied on an average daily?

Mr. G. M. Young: I lay on the table a statement giving the information.

Statement.

(*a*) In December last, there were 25 British Officers, 656 British other ranks, and 630 Indian officers, other ranks and followers in Kamptee.

(*b*) Yes.

(*c*) As the cost-accounting system is not now in force it would not be possible to ascertain the cost of maintaining any single hospital without an undue expenditure of time and labour. It is estimated that in 1926-27 the cost of the British Military Hospital at Kamptee was about Rs. 1,23,000 and that of the Indian Military Hospital about Rs. 44,000.

(*d*)

British Military Hospital—

Indoor patients—687 in 1930 and 549 in 1931.

Outdoor patients—1,371 in 1930 and 1,436 in 1931.

Indian Military Hospital—

Indoor patients—145 in 1930 and 227 in 1931.

Outdoor patients—1,177 in 1930 and 1,459 in 1931.

These figures do not include private servants and their families.

(*e*) 64 beds in the British Military Hospital and 35 beds in the Indian Military Hospital.

The average numbers of beds occupied daily in the British and Indian Military Hospitals at Kamptee are 16 and 8, respectively.

AMALGAMATION OF THE HOSPITALS FOR BRITISH AND INDIAN TROOPS AT KAMPTEE.

71. ***Sir Hari Singh Gour:** (*a*) Is it a fact that the Railways which employ both Europeans and Indians have a single hospital in places like Nagpur?

(*b*) And is it a fact that an Indian medical officer is in its charge?

(*c*) Is it a fact that the Chief Medical Officer of the Great Indian Peninsula Railway is an Indian?

(*d*) What objections are there to the amalgamation of the two hospitals at Kamptee and elsewhere?

Mr. G. M. Young: (*a*) and (*b*). The information has been called for and will be furnished to the Honourable Member in due course.

(*c*) I am informed that an Indian officer had the appointment in an officiating capacity for nearly 4½ months in 1931.

(*d*) The policy of Government is to amalgamate British and Indian military hospitals wherever possible, and there are now 40 combined military hospitals in India. In certain stations, however, the distance between the British and Indian barracks is so great that amalgamation would entail hardship on the sick and an increase in transportation charges. There would also be additional expenditure in the erection or extension of buildings. At Kamptee the distance between the two hospitals is about three miles.

Sir Hari Singh Gour: In that case may I beg to inquire why a single hospital should not have a lorry to carry the passengers from one hospital to the other in Kamptee?

Mr. G. M. Young: I thought that the point of my Honourable friend's proposal was that there should be one hospital.

Sir Hari Singh Gour: Yes. I think the Honourable Member did not understand my question. The distance between the British regimental quarters and the Indian regimental quarters in Kamptee is not three miles but less than a mile. That being the case what difficulty is there to have a single hospital for the British and the Indian Regiments in view of the fact that the Honourable Member will find that both these hospitals have got a very small number of beds, under 20 or 25?

Mr. G. M. Young: I have explained the reasons in my answer to the main question. Amalgamation would entail hardship on the sick, and an increase in transportation charges. There would also be additional expenditure in the erection or extension of buildings.

HOSPITALS FOR BRITISH AND INDIAN TROOPS IN MILITARY STATIONS.

72. ***Sir Hari Singh Gour:** (*a*) Will Government be pleased to state whether the dual system maintained at Kamptee is also observed in other military stations in India?

(*b*) If so, will Government name the stations and state the costs of the two hospitals for the British and Indian troops, the beds occupied in each and the number of patients treated during the years 1929-30 and 1930-31?

Mr. G. M. Young: (*a*) Yes.

(*b*) As stated in my reply to part (*c*) of question No. 70, it is not possible to give the cost of each hospital, but I will furnish the Honourable Member with a statement giving the other information desired.

ORGANISATION OF AN INDIAN INDUSTRIES FAIR.

73. ***Sir Hari Singh Gour:** (*a*) Is it a fact that the eighteenth British Industries Fair is announced to be held under the auspices of H. M. Department of Overseas Trade between February 22nd and March 5, 1932?

(*b*) Is it a fact that such fairs are annually held in France and the "Paris Fair" is one of them?

(*c*) Will Government please state whether they have striven to hold similar fairs in India? If so, when, and with what result? If not, why not?

(*d*) Do Government now propose to arrange holding of similar fairs in order to popularize the products of Indian industry?

The Honourable Sir George Rainy: (*a*) Yes, Sir.

(*b*) The Government of India have no information.

(*c*) and (*d*). The development of industries is normally a provincial transferred subject and the Government of India have not, therefore, undertaken the promotion of fairs in India nor do they propose to do so.

Sir Hari Singh Gour: Is there a Member of the Executive Council in charge of industries in the Government of India? If so, what does he represent?

The Honourable Sir George Rainy: Undoubtedly, Sir. But the fact remains that the development of industries is a provincial transferred subject.

Sir Hari Singh Gour: May I beg to inquire as to what are his functions if he is in charge of the industries and has no industries to control?

The Honourable Sir George Rainy: I doubt if this question arises out of the answer I gave, but if the Honourable Member desires the answer, perhaps he will give notice.

Sir Hari Singh Gour: The question has arisen out of the main question already put, namely, question No. 73.

LAWRENCE SCHOOLS IN INDIA.

74. *Sir Hari Singh Gour: (a) How many Lawrence Schools do Government maintain and where, and what is their purpose?

(b) How much do they cost?

(c) Are they debited to military account? If so, under what head; if not, to what account are they debited?

(d) How many of the parents of children in each of these schools are officers or soldiers on the Active List in the regular Army in India?

(e) How many of these are stationed in places where there are no Army schools?

Mr. G. M. Young: (a) Government maintains the Lawrence School at Sanawar, and contributes towards those at Ghora Gali, Mount Abu and Lovedale.

Their purpose is to provide education for the orphans and children of British soldiers and ex-soldiers.

(b) and (c). The cost to the Central Government as taken in the Army Estimates for the year 1931-32 under Head II-A (ii), minor heads (e), (f), (g) and (m) (10) was as follows:

Sanawar	...	Rs. 2,86,800
Ghora Gali	...	Rs. 11,440
Mount Abu	...	Rs. 33,550
Lovedale	...	Rs. 2,30,000
(d) Sanawar	...	... 73
Ghora Gali	...	... 64
Mount Abu	...	... 16
Lovedale	...	... 78
(e) Sanawar	...	... 14
Ghora Gali	...	... 6
Mount Abu	...	... 1
Lovedale	...	... 4

Sir Hari Singh Gour: Would it not be cheaper in such cases to transfer these boys and children of the soldiers and ex-soldiers to the already established European schools on the other hills?

Mr. G. M. Young: The question of obtaining economies by using either the Lawrence Schools or the military schools but not both, is at present under consideration.

SCHOOLS FOR THE CHILDREN OF BRITISH SOLDIERS.

5. *Sir Hari Singh Gour: (a) How many schools are provided for the education of the children of British soldiers; and what is their cost?

(b) How many of the schools are in the hills and what is their cost?

Mr. G. M. Young: (a) and (b). There are 54 schools in the plains and 24 in the hills. The latter are open for the summer months only. The number in the plains varies slightly, as Army Commanders are empowered to open or close detachment schools according to requirements. The cost of each class of school cannot be readily ascertained, but the total cost for the year 1930-31 was about Rs. 5½ lakhs.

APPOINTMENT OF MUSSALMANS TO GOVERNMENT OF INDIA DEPARTMENTS.

76. *Seth Haji Abdoola Haroon: (a) Has the attention of Government been drawn to an article under the heading "Clerical Staff in Government of India", which was published in the *Eastern Times* of Lahore in its issue of the 20th November, 1931?

(b) Will Government please state whether the figures of strength of the various departments shown therein are correct and, if not, will Government please lay on the table a statement showing in detail the correct figures?

(c) What are the reasons that led the authorities to make such differentiation between Hindus and Mussalmans as regards the strength of the clerical establishment?

(d) Do Government realize that the existing proportion of Muslims in the various departments of the Government of India is inadequate, and if not, what action do they propose to take to bring about number of Muslim employees sufficiently up so as to maintain the equilibrium in comparison with other communities in the departments mentioned above?

The Honourable Sir James Crerar: (a) I have seen the article referred to.

(b) The figures are substantially correct, but the percentage of Hindus against item 2 should be 59·26 instead of 60 and that of Muslims against item 16, 16·8 instead of 15·8. If the Honourable Member will refer to the annual statements from which the figures have been taken for a few Departments only, and which are available in the Library of the House, he will find that the position from the Muslim point of view is not so unfavourable for the Government of India establishment as a whole, as the article suggests.

(c) and (d). As has already been explained, the policy of Government is to prevent the undue preponderance of any one community in the services. As the orders of 1926 reserving 1/3rd of the permanent vacancies for minorities can only be given effect to when vacancies for direct recruitment occur, the correction of under representation must necessarily be gradual. A perusal of the annual returns showing the communal composition of the clerical staff, which have been prescribed with a view to ensure that practical effect is being given to the policy of 1926, will however show that in most of the offices in question the percentage of Muslims has increased since 1926.

MUSLIM ASSISTANT SURGEONS ON THE NORTH WESTERN RAILWAY.

77. *Seth Haji Abdoola Haroon: Will the Honourable Member for Railways please state:

(a) the total number of assistant surgeons on the North Western Railway and the number of Muslims among them; and

(b) the total number of sub-assistant surgeons and the number of Muslims among them?

Sir Alan Parsons: With your permission, Sir, I propose to reply to this and the following question together.

I have called for certain information from the Agent, North Western Railway, and will communicate with the Honourable Member on its receipt.

APPOINTMENTS ON THE NORTH WESTERN RAILWAY.

†78. ***Seth Haji Abdoola Haroon:** Will the Honourable Member for Railways please state:

(*a*) whether it is a fact that appointments on the North Western Railway are made through Selection Boards;

(*b*) if the answer to part (*a*) above be in the affirmative, whether the same procedure is adopted in the recruitment of assistant surgeons;

(*c*) how many Selection Boards have been held since the inauguration of the new scheme;

(*d*) whether there are any instances of recruitment without Selection Boards; if so, what the total number is of such appointments made, giving also the number of (i) Hindus, (ii) Muslims, (iii) Sikhs; and

(*e*) whether there are any instances of appointments having been made in a hurry first and placed before the Selection Board for formal approval subsequently and if so, the total number of such appointments made, giving the number of (i) Hindus, (ii) Muslims, (iii) Sikhs?

REVERSION TO PREVIOUS APPOINTMENTS OF CERTAIN ASSISTANT SURGEONS ON THE NORTH WESTERN RAILWAY.

79. ***Seth Haji Abdoola Haroon:** (*a*) Will the Honourable Member for Railways please state whether it is contemplated to revert the I. M. D. Assistant Surgeons on the North Western Railway to their previous department?

(*b*) If so,

(i) since when,

(ii) how many have been reverted since then; and

(iii) whether the Honourable Member is prepared to take necessary steps to send them back as early as possible in the interest of economy?

Sir Alan Parsons: (*a*) No.

(*b*) Does not arise.

RESOLUTION *RE* IMPERIAL BANK OF INDIA.

Mr. T. N. Ramakrishna Reddi (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, the Resolution which has been moved in the Simla Session the discussion of which had been adjourned for want of quorum reads:

"This Assembly recommends to the Governor General in Council that a Committee of Inquiry be appointed to enquire into the working of the Imperial Bank in all its various branches."

The Imperial Bank is the creation of a statute of the Legislature in 1920. The forces that were responsible for amalgamation of the three banks at that time had their origin in the great war. Before the war

†For answer to this question, *see* answer to starred question No. 77.

these Presidency Banks were commercial rivals with each other and with regard to Government business they were co-operating. When the war came these three banks vied with each other to come to the help of the Government by floating loans, treasury bills, etc., and thus helped Government to a large extent. After the war, the Government thought that there was no use of allowing these banks to be commercial rivals while they were all united in the business concerning Government, and further the Government thought that it would be very good for the industrial and banking development of the country if it placed the Government tresaury balances with one centralised bank instead of distributing, then among three banks as they had existed. And so the matters were discussed and finally the Imperial Bank Act, 1920. was passed. But actually the Bank came into working about January 1921. Under the Act certain privileges were given to the Imperial Bank as also certain restrictions were placed on its working. The most important of the privileges is to deposit all cash balances of Government with the Imperial Bank without taking any interest at all. This is a very important privilege because at times the Government balances come to the tune of 20 crores. So, these 20 crores or something less will be deposited in the Imperial Bank without Government taking any interest at all. In return for that the Bank has to do the treasury business of the Government and also to carry on the loan policy of Government and the Bank also shall undertake, within a period of five years, to open as many as 100 branches in all the important towns. The Bank has fulfilled this opening of 100 branches within the specified time. Certain restrictions were also placed on the Bank, namely, that the Bank should not compete with foreign exchange banks and further it should not borrow money outside India and also it should not lend money for more than six months. All these restrictions were placed on it on the principle that when the Bank has Government balances, it should not venture on risky transactions. With all these privileges and restrictions the Imperial Bank came into existence. At that time the Government expected many benefits to arise out of the working of the Imperial Bank of India Act. The Government expected, and the country also expected, that with the starting of these new branches in all the important towns, it would attract large amounts of deposits from the local people which were lying dormant in hoards. In up-country they also thought that these branches would help the indigenous banks in times of financial difficulty. It was also expected that these branches would help the growth of industrial, agricultural and joint stock banks in up-country. They also thought that with large Government balances remaining in the hands of the Bank, the Bank would help the country in times of financial stress. These banks it was also thought would also help Indians in training in the science of banking and also provide them with appointments in the banks. We have to consider whether these expectations raised about the working of the Imperial Bank have been realised after its work for over ten years. I may say at once that this privilege of Government placing all their money balances with the Bank was for ten years and these ten years have now lapsed.

Now, Sir, with regard to the first expectation that the Bank would attract large private deposits, experience shows that it has been an utter failure. In the year 1920, *i.e.*, the year when it came into existence, private deposits were existing to the extent of 78 crores and then they gradually deteriorated. In the year 1921 they were 65 crores, in 1922,

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57 crores and so on, until in the year 1929 there were 72 crores. Thus there is a gradual deterioration in the deposits of money in the Imperial Bank and its branches throughout the country, in spite of the fact that there were nearly 165 branches. There were 100 branches opened after the Act and there were already 65 before the Act. In spite of the fact that there were so many branches established and the banking facilities were taken to the very doors of persons the private deposits showed no increase but on the other hand they have been deteriorating. So there must be some very valid and important grounds for this deterioration and it is worth while inquiring into those grounds.

Then, Sir, with regard to the second expectation, that is, helping the growth and development of indigenous banks, we may see whether the Imperial Bank is coming to the rescue of such banks in days of financial distress. With regard to that there were innumerable complaints made against the way in which this Imperial Bank, with all the prestige of its being a Government bank and with all the facilities which it has got of having crores of rupees of treasury balances remaining with it without interest, has used these privileges to crush the indigenous banking movement. There are many instances of this. I do not want to weary the House with quoting all of them but I will quote one or two instances that were stated before the Banking Inquiry Committee. This is what we find in the Majority Report in volume I at page 105:

"The following is an extract from the Report of the Bengal Committee:

'In the mofussil it has been stated that the branches of the Imperial Bank evince a lack of sympathy in their attitude towards the indigenous bankers. Evidence has been received from two firms in Dacca that the local branch of the Imperial Bank refuses to rediscount *hundis* bearing the endorsements of even the firms of highest repute in Dacca town. A complaint has also been made that the Imperial Bank does not afford any special facility or consideration even to the old, reliable and substantial Indian firms'."

Then in volume II, page 16, the following evidence has been recorded:

"The Imperial Bank except in a few instances has never sympathetically looked upon the struggling Indian banks but has at every opportunity entered into competition with them at times, even in an unscrupulous manner; and to expect them to co-operate with Indian banks except when it benefits them is useless."

In volume III, at page 419, this is what a witness says in answer to a question:

"They (meaning Branches of the Imperial Bank) don't help other Indian banks. If they stop with doing their legitimate duties, then nobody has any complaint, but they are really going out of their way in several respects. They threaten the customers of the Indian joint stock banks by asking the former not to co-operate with the latter on pain of losing facilities from the Imperial Bank."

There are many other instances which I will not weary the House by quoting, but these are typical of the instances. Then, Sir, with regard to the third expectation, that of helping indigenous industries and agriculture, I have to state that in the matter of advancing money for capital expenses to industries or for permanent improvements in connection with agriculture, the statute itself prohibits the Bank from lending for more than six months and so no useful purpose is served by the Bank lending money for such a short period for industrial or agricultural enterprises. The Majority Report of the Banking Inquiry Committee says at page 269:

"The Imperial Bank of India which is the biggest Indian joint stock bank that might be of some assistance in this direction,"

—that is, in the matter of advancing loans to industries and agriculture—

"is debarred by statute from giving loans to industrial companies for capital expenditure, by the limitation of six months on the period of loans that may be granted by it, and by a prohibition against lending money on the security of industrial shares or immovable property. Even as regards floating capital secured by liquid assets, the Bank insists on a margin of something like 30 per cent., with the result that industries have to provide not only the whole of the capital required for financing the fixed assets but also 30 per cent. of the capital required for financing the floating assets. This attitude of the banks in India, added to the shyness of Indian capital, acts as a damper on the industrial development of India."

Then, Sir, with regard to the granting of loans even for these six months, there are various instances brought to the notice of the Banking Inquiry Committee where they have shown racial discrimination. In this connection I may state that even though the Imperial Bank is considered to be a national bank, yet the non-Indians have invested more in the share capital than the Indians. Non-Indians have contributed to the extent of 284 lakhs whereas Indians have contributed 275 lakhs. Further, it is mostly if not entirely governed and managed by non-Indian Directors; and so we find that this racial discrimination in the matter of granting loans to Indians has been going on. With regard to this the Majority Report states on page 271:

"Some complaints have been made about racial discrimination on the part of the officers of the Imperial Bank of India when considering applications for credit. It has been suggested that the European managers of the Bank on account of their methods of living and social habits have greater opportunities of coming in closer personal contact with European clients than with Indians and that this personal information and contact result in more favourable treatment being accorded to European concerns than to Indian concerns. It is further generally believed that the Bank lends to European concerns more freely than to Indian concerns and that several Indian concerns which took the Bank's assistance have had bitter experience. It has been suggested that while non-Indian concerns get fuller assistance from the Bank, the assistance rendered to Indian concerns is very small and falls much short of the actual requirements of the concern."

In Vol. I, Part II of the Minority Report, they quote a passage from the External Capital Committee's Report by Mr. Goswami. It reads thus:

"I should like to express the common belief,—for which I know there is a good foundation in actual facts,—that racial and political discrimination is made in the matter of credit, and that Indians usually do not receive in matters of credit the treatment that their assets entitle them to, while, on the other hand, British businessmen have frequently been allowed larger credit than what on ordinary business principles they ought to have got. This is a matter for inquiry."

Sir, this is also a matter for inquiry. I might point out that this evidence is borne out by certain facts. For instance, the non-Indian deposits in the Imperial Bank, both current and fixed amount to 828 lakhs, while the advances given to non-Indians come to about 11 crores 70 lakhs; the Indian deposits amount to 38 crores 81 lakhs, whereas the Indian depositors are given advances to the extent of only 30 crores and 38 lakhs. Thus in the case of non-Indians they are getting advances in excess of their deposits, whereas in the case of Indians they are not getting loans even to the extent of their deposits. This is really a very serious matter, Sir, and it requires careful consideration and inquiry.

Then, Sir, with regard to the last hope which the Government raised of training Indians in banking habits and to hold higher posts in the Imperial Bank, let us consider for a moment how far the Bank have fulfilled our expectations in this respect. Government looked forward for

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the opportunity the Imperial Bank would afford to train Indians in all its various branches, and they thought that gradually Indians would be trained in the science of banking and that they could be appointed in large numbers in higher posts. But what do we find, Sir? There are now on the staff of the Imperial Bank 43 Indian staff officers as against 80 Europeans, and during the year 1925 there were fresh appointments made of 32 Europeans and 14 Indians on the staff of the Imperial Bank, and ever since that time some more appointments were made, namely, 23 Europeans as against 17 Indians. Thus it will be seen that though there were some appointments of Indians made, yet side by side with those appointments of Indians more Europeans have been brought in. I therefore urge that at least until a larger proportion of Indians is brought into the management, the non-Indian recruitment must be stopped. It must be remembered that the Bank exists not merely for earning dividends for its shareholders, but it exists for the development of the country resources, for teaching banking habits to the people of the country, and also for helping the country generally in its agricultural and industrial development. It is because the taxpayer's money is deposited in the Bank to the extent of nearly 20 crores, Indians naturally expect that these funds should be utilised for the industrial and agricultural development of the country, and not merely for paying larger and larger dividends to its shareholders. The Bank is declaring nearly 16 per cent. dividends to its shareholders. Sir, the Act is also somewhat defective in that respect, because it does not fix any maximum amount of dividend to be paid to the shareholders so that any dividend that is earned over and above that maximum should be utilised for the training of Indians in the science of banking and also to provide funds for sending Indians to foreign countries like Germany, England and France where, it is an admitted fact, banking has developed to a very great extent, while India does not provide such a vast field for training in the science of banking. There is absolutely no provision in the Act for earmarking a certain amount for financing industries, and so the Act should be amended in such a way as to enable the Bank to give direct help to indigenous industries or to give advances to industrial banks to help the industries of the country. Further more, Sir, I strongly suggest that the Act might be so amended to as enable the Imperial Bank to place a part of its aggregate resources at the disposal of agricultural and co-operative banks so that these small banks might advance money to agriculturists and relieve them from their indebtedness. These are the things which the Committee that might be appointed might go into.

Then with regard to some of the restrictions placed on the Imperial Bank, the most important restriction is that it is not allowed to do exchange business. At present that is entirely managed by the foreign exchange banks; all the exchange business that is done in India is in the hands of foreign banks; and the one bank which could effectively compete with all these foreign banks and which could provide facilities for Indians is the Imperial Bank, which however has been precluded from entering into the exchange business. So much so, that all the important exchange business is in the hands of foreigners. The reason why this restriction has been imposed on the Imperial Bank is, it is alleged, that the large cash balances of the Government are lying with it and that they ought not to take any risks which would be entailed, if the Bank were allowed to do exchange business. But, Sir,

the Government themselves and the Secretary of State as well carry on exchange business by the operation of the sale and purchase of Council Bills, and so when responsible authorities like the Government and the Secretary of State do exchange business, there is no reason why the Imperial Bank should be debarred from doing this sort of business. Another reason why the Imperial Bank is precluded from doing exchange business is, it is again alleged that the Bank will have cash balances of other exchange banks with it, and so it ought not to compete with other exchange banks, but that, to my mind, is no valid reason. Is the Indian trade to be left entirely to the facilities offered by the foreign exchange banks? The total volume of foreign exchange business in India aggregates to something like six hundred crores, and all this is left in the hands of foreign exchange banks. I therefore think, Sir, that this restriction imposed on the Imperial Bank should be removed, and this is also a point for the consideration of the Committee. Sir, I do not want to take up any more time of the House. As the ten years' period agreement has also expired, it is time to consider how best we can amend the Act so as to make the Imperial Bank serve the needs of the country more effectively than it has been doing, and also to remove the suspicion and distrust of Indians. Further, there is the question of a Reserve Bank

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Mr. President: The Honourable Member has only two minutes more.

Mr. T. N. Ramakrishna Reddi: I am concluding. If a Reserve Bank is at all to be established then the question is what should be the position of the Imperial Bank. There cannot be two State banks existing side by side. So in order to consider all these things, a committee is absolutely necessary to go into the working of the Imperial Bank in all its various branches and to submit recommendations with regard to the changes which should be made in the constitution of the Imperial Bank. With these words, I move the Resolution that stands in my name.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, this is a subject to which I have devoted some attention from the year 1928 when I entered this Assembly. This Resolution is a very modest one asking for an enquiry into the affairs of the Imperial Bank. It cannot be denied that the Imperial Bank is the largest bank now in India. It also cannot be denied that it has been created by a statute. It also cannot be denied, as has been stated by my Honourable friend on my right in detail, that the Bank enjoys many privileges and many benefits from the Government which any bank can enjoy. It has large balances of Government with it without any interest. The loan policy of the Government is conducted through it. In one word, I may say that all the coffers of the Government are in its hands and as I will show you presently, the Bank is not responsible to the people; it is not responsible to the Government either. To allow such a bank to carry on its activities with Government money and to carry on in this bad manner is I think a thing which should be immediately remedied. It also cannot be denied that there are large deposits made by the people of this country with this Bank, and therefore, the Bank is responsible to the Government as well as to the people.

Now, with regard to its responsibilities, I think its main responsibilities have been described by my Honourable friend, the Mover of the Resolution. He has said that one of the obligations on the Bank was that it

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should help the country in a time of financial stringency and distress. I ask whether it has justified itself on that ground and whether that object has been served. I answer that question with a positive "No.". Take the instance of the recent bank failures in India. The Peoples' Bank of Northern India failed, but it has since then shown that it can be revived, and if the Imperial Bank had come to its assistance, that bank would not have failed. That is a typical instance of the failure of the Imperial Bank to do its duty. Then come to the training of Indians in banking business. I am sorry to say that in that direction also they have failed. They have not trained Indians to such an extent or even to an appreciable extent, so that Indians can carry on banking business independently. The next point refers to the employment of Indian officers in their branches. Here there has been a total failure. There are very few Indian officers in the higher posts. The Governors of the Bank and the officers of the Bank who carry on the administration refuse to admit that the public or the Government have any hand in directing or even advising them that the number of Indian officers should be increased.

Then, as regards administration itself, I think it is a total failure. Their own establishments, their own shroffs, their own clerks and others are all dissatisfied with the way in which the administration is being carried on. I will show you that there are certain restrictions placed on those people, which are of an inhuman character. Sir, in 1928 when I entered this Assembly, on the 6th September, I asked questions pointing out that the administration of the Bank was far from satisfactory and whether the Government was going to help the country in improving it. I asked whether it was not a fact that the Imperial Bank was holding its office from 9-30 A.M. to 7-30 P.M. Then I asked if it was not a fact that the shroffs in the Imperial Bank had to submit a letter of responsibility for deficit of cash arising in their absence while going on leave for a short period. You can understand how inhuman it is, how absolutely wrong it is. Again I pointed out with regard to the salaries of the employees that there was not a proper method adopted to meet that question. What was the reply to all these questions? I, as a representative of the people, came to this House and asked Government to give us help. And what help did the Government give? This is the reply that was given by the Government. "Government have no information and they are not at liberty to enquire into the matters alleged as the Imperial Bank of India is not a Government institution." If it is not a Government institution, if it has no responsibility to Government, if it wants to work in a way that Government could not expect to get any information or correct their methods, let the Government withdraw all the money that they have deposited with the Imperial Bank, and then see if they don't come to their senses. Pass a Bill or make an enquiry, be satisfied and then legislate suitably. The point was not left there but it was pursued, and in 1929, Mr. Vidya Sagar Pandya asked in the Assembly:

"In view of the state of affairs in the administration of the Imperial Bank of India, as disclosed in starred question No. 199 by Mr. Lalchand Navalrai on the 6th September, 1928, do Government propose to take steps to secure powers under the renewed agreement to take cognisance of such affairs."

Now, we know that there is an agreement between the Imperial Bank and the Government of India, and what is required is to make the agreement of such a nature that the Imperial Bank may not say that no one can

question their business and their authority. Then the Honourable Sir George Schuster, for whom I must say I have much respect, was himself absolutely powerless and the reply he made was this:

"With reference to the first part of the Honourable Member's question I must point out that it is not a case of anything having been disclosed by Mr. Lalchand Navalrai's question in this Assembly. Certain allegations were made in that question but so far as the Government is concerned, these allegations have been in no way established."

Well, I am very sorry but I will ask the Honourable Member, who happily is present to-day, whether he has made any inquiry into those allegations since. Government to our knowledge have not made any inquiries. They are not prepared to help the country by making the Imperial Bank responsible to us. I therefore ask the House to pass this Resolution in order to compel the Government to have legislation on this point or at least to make an inquiry to find out if these allegations which they say are not established are true or not. I assert they are true. Then the Honourable the Finance Member began consoling us by saying:

"Moreover since the existing agreement with the Imperial Bank of India does not terminate until 1931 the question of its renewal or of the conditions which might be attached to such renewal has not yet become a practical issue."

Is it not a practical issue now, I ask? We have passed the year 1931. The agreement has to be made. Therefore this is the fittest time to accept the Resolution of my friend, Mr. Reddi. This was not all the effort made. The controversy has been carried on up till now. In 1929 Mr. B. Das, who is always active on this side of the House in attempting to get things set right, actually put in a private Bill. That was a Bill to amend the Imperial Bank of India Act. He did it with the object of making an agreement with the Bank to the effect that if they meant to be profitted by Government money, they should undertake to be responsible to the Government for their mismanagement. Now, we know how difficult it is to have a private Bill passed through the House. It was introduced but it has not seen the light of day yet. In 1925 Mr. Goswami put certain questions with regard to the staff of the Bank and the Honourable Sir Basil Blackett replying on the 24th February, 1925, said that no departure from the arrangements provided for in the Imperial Bank of India Act can be made unless the Act is amended, I say, let the Government undertake to amend the Act. In subsequent years questions were asked if the Government of India had been approached by the Governors of the Imperial Bank for the renewal of their contract and if so had they reached any conclusions regarding the renewal of the contract and other questions. The answer was:

"Under clause 16 of the agreement between the Imperial Bank and the Government, the agreement may be terminated on the 27th January 1931 or at any time thereafter by either of the parties giving notice of their desire to terminate it and if such notice is given the agreement will cease to operate 12 months after the giving of the notice. In the absence of any such notice by either party, the agreement automatically remains in force. The earliest day on which the Imperial Bank could give 12 months' notice of the termination of the agreement would be the 7th January, 1930. No such notice has yet been received from the Bank. The Government of India could give 12 months' notice of the termination of the agreement on the 27th January, 1930 or any subsequent date. They have considered whether such notice should be given but have decided not to do so for the present. There are many reasons why it is difficult to make a final decision at the present stage pending the Report of the Banking Inquiry Committee and the Report of the Statutory Commission".

Mr. President: The Honourable Member's time is up.

Mr. Lalchand Navalrai: Then I submit that no reasons have been shown why the contract should not be changed and the responsibility of the Imperial Bank secured. With these words, I support the Resolution.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhammadan Rural): Having some experience of co-operative banking in India, I have found that the Imperial Bank of India does not in any way help to meet the needs of the co-operators in India. I was at one time acting as Manager of one of the Central Banking Unions and I wanted the Imperial Bank to discount the notes of the Co-operative Bank. The Allahabad Bank of Lucknow was prepared to discount these notes but the Imperial Bank of India did not. My submission is that the Imperial Bank holds very great deposits of Government money which comes from the landlords and tenants and still no help is given by the Imperial Bank to the co-operative societies in India. I have also found in my own experience that the Imperial Bank of India does not give the same consideration to all the sections of the people. It makes a sort of discrimination between one community and another. I know there is discrimination in favour of the relatives of the Treasurers of those banks. I myself went to the Agent of a Bank and asked him whether he could take any other class. He asked me to provide a proper candidate. I provided him with an undergraduate who knew mathematics very well and was a good accountant, but to my great surprise I was told only the next day that the boy could not be taken in for reasons best known to him. There will not be other instances wanting if only a proper inquiry is made such as that suggested by my friends, Mr. Navalrai and the Mover of the Resolution. Such racial, or whatever discrimination you may like to call it, is found everywhere, if I mistake not. As regards other points, I do not wish to take up your time any more, but I am sure that, if inquiries are made, there will be many complaints brought forward about the working of the Imperial Bank. With these remarks, I sit down.

12 NOON.

The Honourable Sir George Schuster (Finance Member): Sir, I have listened with considerable interest to the speeches which have been made on this matter, but the speakers will not I hope take it amiss if I say that I had hoped to get something of more interest from their speeches than what I have actually received. Most of the points which have been made are points which are very familiar to us; and I think I may say that practically all of them were put before the Central Banking Inquiry Committee from various sides and have been dealt with in some way or other in the Report of that Committee. I make that remark because it is relevant to the line which I shall take in dealing with this motion. There is really only one question which Honourable Members have got to ask themselves, and that is whether the present moment is an appropriate one to initiate a full-dress inquiry into the working of the Imperial Bank. The point I would put to the House is that the present moment is not an appropriate moment for doing that. There are three main reasons for my taking that line. The first is that, as I have already indicated in my remarks, a great deal of the subject-matter which has been dealt with in this debate, and which forms the ground on which the motion has been moved, has been dealt with in the Report of the Central Banking Inquiry Committee. The Government now have that Report under their consideration. I am sure Honourable Members will appreciate that we in the Finance Department are in considerable difficulty about taking

up all these points as expeditiously as we should like just at the present time; but I can assure Honourable Members that that Report is being very seriously studied in my Department. Point by point, we are taking up the recommendations and suggestions that they have made. We are discussing them with the Imperial Bank where the latter are concerned, and we shall in due course put our conclusions before this House and before the public. Therefore, that is one of the reasons why I say that the present moment is inopportune for starting a second inquiry. The subject-matter has very largely already been dealt with by the Central Banking Inquiry Committee.

The second reason which I would put forward just now is that, however much we try to keep down expenditure, these inquiries do cost a very great deal of money. It is very easy, when any point comes up, to say, "Let us have an inquiry into it"; and I myself must confess that I have been rather prone in the past to lend an ear to suggestions of that kind. But I have learnt by bitter experience how much these inquiries cost, and I am becoming very doubtful in my mind whether that expenditure is always justified. One gets a large number of voluminous reports. By the time they are received, the Government are fully occupied with other affairs. The attention of the country is occupied with other affairs, and reports on which so much money has been spent receive but scant consideration. These reports of the Banking Inquiry Committees, the whole banking inquiry itself in fact, afford an instance in point. I myself do not regret having initiated that inquiry. I believe that in the future the evidence that has been collected by the provincial Banking Inquiry Committees and the Central Banking Inquiry Committee will prove a store of knowledge of very great value to the country. But I would ask Honourable Members opposite to put it to themselves,—how much attention has the result of those labours received from the public just at this time when everyone's mind is turned to big political developments, to the immediate troubles in the country, or to the impending constitutional changes in the near future? Would an inquiry into the Imperial Bank now receive any more attention, and can we, in our present financial stringency, really justify ourselves in spending a great deal of money on a further inquiry? That is the practical point which I would put before this House. It applies with equal force to all Members on whatever side they sit. I do not put it as a debating point, but as a practical consideration which deserves everybody's attention.

Then, the third point I would put to the House is this. We shall have in the course of the future, I myself hope in the very near future, to consider the whole question of setting up a Reserve Bank in India. I have never disguised from this House my own feeling that that is a step which ought to be taken as soon as it possibly can be taken; and we on this side do not intend to be put off by any difficulties in tackling that question. Well, when that question comes up, the whole question of the Imperial Bank will have to be considered. When that is considered, we shall have before us a great volume of evidence and recommendations such as have been collected as a result of the recent banking inquiries. We shall have before us all the points which have been made in debates in this House when the question of the Imperial Bank comes up, and of course we shall have before us the conclusions which were reached by the Committee of the Legislature which considered the future of the Imperial Bank together with the Reserve Bank when the matter was discussed

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in 1927. I would put it to the House that we shall have before us all that is really necessary to enable Government and this House to form an opinion on the matter of what ought to be the future of the Imperial Bank; and the very nature of the speeches which I heard to-day, the very nature of the points which have been raised, convince me that I am right when I say that there is really nothing new which would be brought out by any inquiry which could be set up now. The Honourable Member who moved this Resolution in fact reinforced all his points by quoting from evidence which had been put before the Central Banking Inquiry Committee. I ask him, what further inquiry can possibly throw any further light on those points? That, Sir, is my main line for dealing with this particular motion. I do not wish to take up the time of the House to-day in dealing in detail with the various allegations that have been made about the conduct of its affairs by the Imperial Bank; but I would like to correct certain misunderstandings which I think may arise from the remarks that have been made on the other side. For example, my Honourable friend who moved this Resolution referred frequently to the very large balances which the Government of India deposit with the Imperial Bank free of interest. He referred on several occasions to a figure of 20 crores. Now I would remind my Honourable friend that although there may be occasions when the Government balance with the Imperial Bank has—for instance shortly after the issue of a large loan—risen to figures something like 15 crores or 16 crores or possibly even 20 crores, that does not represent the scale of the balances which the Government keeps with the Bank; and it is of no use to the Bank to have balances which suddenly rise to that figure because the Bank cannot make any use of money the possession of which it cannot rely upon. The only thing that matters to the Bank is the figure of the minimum balance—the minimum balance which the Government as an average keeps with them. That is what matters to them; that is the figure on which they can rely, and that figure has been settled in agreement between the Government and the Bank. I have not the papers with me, but I think I am correct in stating that the figure is something like 7 crores, and I would inform the House that very shortly after I myself arrived in this country, I had occasion to go into that matter very carefully and to consider what was a fair sum to settle as the minimum balance which the Government should maintain in order to give the Bank an adequate recompense for the services which the Bank is under obligation to undertake for the Government. We fixed the figure on which we are now working as being a figure which represented an adequate *quid pro quo* to be given by the Government to the Bank for the services which the Bank has got to perform. It may conceivably be argued that we have erred on the side of being too generous. On the other hand, according to the Bank, we erred in the other direction. They argued that we ought to keep a very much larger sum with them. Personally, I think the arrangement that we arrived at was a fair arrangement. Therefore, I want to put it to the House not only that the sum of 20 crores, which has been mentioned as the free Government balance, is totally inaccurate and a totally misleading statement, but also that the Bank is not in a privileged position in the sense that it is receiving anything like a free gift from the Government. It is a business arrangement. They give us

certain benefits and services on their side and we give them certain benefits and services on ours and the two are supposed to balance.

Mr. Lalchand Navalrai: Let them give you responsibility also.

The Honourable Sir George Schuster: I have failed to understand what my Honourable friend means when he talks about responsibility. "Responsibility" is a word which is very often used in this House in connection with a particular form of government. It implies a government which carries on its work in responsibility to a public electorate. The analogy of a government has no sort of application to the Imperial Bank. The Imperial Bank is a private institution and the Directors and the Governors of the Imperial Bank are primarily responsible—I would even say exclusively responsible—to their shareholders. They have to carry on their business in a way which will ensure profit to their shareholders and the stability of the Bank. They have also certain obligations to the Government, and their responsibility extends to conducting their business in such a way that they should be able to fulfil these obligations. I have no hesitation in saying that in the conduct of their business, the responsible officers of the Bank, so far as I have known them, have never failed in a sense of this responsibility. And I would put it to the House as a general answer to a great deal that has been said in the course of this debate, that the way in which the Imperial Bank has co-operated with the Government and has rendered assistance to the public throughout the very difficult months of last summer and autumn is a very excellent answer to practically all the charges which have been made against them. We often hear instances quoted of failures of banks which might have been avoided if the Imperial Bank had, so it is said, stepped in to help them at the right time. I should like to make a remark in that connection and that is that when all these matters are being discussed, my own impression, coming as an outsider, is that businesses in India are very apt to feel that they have a ground of complaint if somebody from outside does not help them to avoid failure. In England, I venture to say that a man who runs a business regards himself as responsible for avoiding failure; he does not look to others to help him out, nor does he think that he has a grievance either against Providence or the Government if he makes mistakes and fails to avoid their consequences. Here there seems to be a general tendency to think that if anybody gets into difficulties, either the Government or some institution like the Imperial Bank must help them out. I think it is a very dangerous tendency and, when Honourable Members talk about responsibility, I would ask them to apply that doctrine to the people who are conducting business and to try and spread abroad in the country a feeling that every man who runs a business is ultimately and solely responsible for his own success or failure. But that perhaps has taken me into rather wider issues. Coming back to the point on which I was talking, namely, the part which has been played by the Imperial Bank, I would ask Honourable Members to appreciate that it is not only the failures which matter. If they would inquire under the surface, they would find cases where failure had been avoided and therefore the public heard nothing about the crisis which might have occurred. If they would inquire under the surface, particularly in connection with what has happened during the last few months, I think they will find that the Imperial Bank acting, as I said, in co-operation with the Government, has always been ready to give its help in cases where help was really deserved. And the very fact that in connection with the recent crisis there were no serious banking failures, is, I maintain,

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conclusive evidence of the point which I am making, that the Imperial Bank has not failed in its responsibility as the leading Bank in the country.

I would just like to refer to one passage from the Central Banking Inquiry Committee's Report in connection with the point as to whether the Bank is in such a position of receiving benefits from the Government that Government have the right to step in and impose upon it a policy which its Directors on its merits as a commercial proposition would not themselves undertake. I am referring to paragraph 532 on page 372 of the Central Banking Inquiry Committee's Report. They are dealing here with one of the questions which has been raised in the present discussion, namely, the Indianisation of the staff. And they quote figures on page 372 which show what advances the Bank have made in the recruiting of the Indian staff. Then they refer to a certain condition which they have recommended in another passage that should be imposed upon the Bank. They go on to say:

"While we consider such a condition justifiable in connection with the grant of any special concessions to the Imperial Bank of India, we do not think it necessary to make any recommendation to cover the interim period before the establishment of the Reserve Bank. If the privilege of the free use of Government balances and other concessions now enjoyed by the Imperial Bank of India is a consideration in favour of the proposal of the further Indianisation as urged by witnesses, it is also to be remembered that these privileges are not given without a *quid pro quo* and that the Imperial Bank of India has to incur a large expenditure on account of the staff employed for carrying on Government Treasury business."

I quote that as a typical case where they have dealt with a particular recommendation and taken the line that at present the Bank is not enjoying special benefits from the Government which justify Government in imposing conditions on the Bank which they would not themselves adopt on its merits as a commercial policy. I do not think that it is necessary that I should take the time of the House any further in dealing with the detailed points that have been brought up in the course of this discussion. Before I conclude I will summarise again the three points that I have made in justification of the Government's attitude that the present is not an opportune moment for inaugurating an enquiry of this sort. My points are these: first, that the matter has been fully dealt with in the Central Banking Enquiry Committee's Report, secondly that a good deal of expenditure would be involved which we are not justified in undertaking just now; and thirdly that the whole matter will have to be considered *de novo* in connection with the great problems which will arise when we come to deal with the question of setting up a Reserve Bank in India, and that when that time comes we shall have before us sufficient data on which to deal with all the points to which an enquiry now could be directed. On these grounds I oppose the Resolution.

Mr. T. N. Ramakrishna Reddi: Sir, I do not propose to reply to all the points raised by the Honourable Member *seriatim* as I do not want to press this Resolution to a division. I have brought this Resolution forward just to express the widespread feeling in the country with regard to the working of the Imperial Bank, and if Members have been impressed with the remarks, then I am satisfied. In view of the assurance given by the Honourable Member that this question is receiving the serious consideration of Government and that the points raised in this debate will be taken into consideration when this question is dealt with, I do not press it to a division.

Mr. President: The Resolution proposed runs:

"This Assembly recommends to the Governor General in Council that a Committee of Inquiry be appointed to enquire into the working of the Imperial Bank in all its various branches."

The question is that that Resolution be adopted.

The motion was negatived.

RESOLUTION *RE* CHIEF JUSTICES OF HIGH COURTS.

Mr. President: The next Resolution stands in the name of Lala Hari Raj Swarup. As he is absent, I call upon Sir Hari Singh Gour to move the same.

Sir Hari Singh Gour: (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I move:

"This Assembly recommends to the Governor General in Council to convey to His Majesty's Government that in the opinion of this House the Chief Justice of an Indian High Court shall be a Barrister, a Vakil, or an Advocate, and not a member of the Indian Civil Service."

I know that Honourable Members in this House may not feel quite familiar with the subject matter of this Resolution. I shall, therefore, briefly recapitulate for their information the leading facts which underlie this Resolution. Under the Government of India Act, 1915, which is the Government of India Act now in force, section 101, the constitution of the High Courts of India is given, and *inter alia*, it is provided in clause 4 that not less than one-third of the Judges of High Courts, including the Chief Justice but excluding the Additional Judges, must be such Barristers, or Advocates as aforesaid and that not less than one-third must be members of the Indian Civil Service. Ever since the constitution of the Indian High Courts, this clause has been understood to mean, and on that understanding it has been applied that the Chief Justice of the Indian High Courts shall either be a Barrister or an Advocate.

The term Advocate was used in the special sense described in clause 3 (*a*), namely, a Member of the Faculty of Advocates in Scotland. I shall, therefore, for the purpose of my argument point out that ever since the constitution of the Indian High Courts under the Government of India Act, the Chief Justice of the Chartered High Courts has always been drawn from amongst the ranks of Barristers and Advocates of the Faculty of Advocates in Scotland. In 1921, my friend Mr. Iswar Saran moved a Resolution in this House giving effect to the view of the members of the Vakil Bar to the effect that the Indian Bar should be made an autonomous Bar and the distinction between Barristers and Vakils which had hithertofore prevailed should as far as possible be eliminated. The Bar Council's Committee was appointed, and as the members of the legal profession would be aware, that Committee drew up recommendations which were given effect to by the Government of India by eliminating as far as possible all practical differences between the English Barristers and the Indian Vakils, both of them being made eligible to become Advocates of the Chartered High Courts, particularly of the High Courts of Calcutta and Bombay where the original side was till then the sole monopoly of the English Barrister. Following upon that Resolution and the action taken, one of the Members of this House, Mr. Rangachariar, tabled a Resolution which came up for discussion on 19th

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February, 1924. The purpose of that Resolution was that the office of Chief Justice of the Chartered High Courts should not be confined merely to a Barrister, and that as Vakils were then entitled to be enrolled as Advocates, it was only natural and reasonable that the provisions of section 101 (4) of the Government of India Act should be so relaxed as to permit of the appointment of the Vakil Advocate to the high office of the Chief Justice of a Chartered High Court. The Honourable Sir Malcolm Hailey, on behalf of Government, gave an assurance that the matter was being considered by the Government of India and that due steps would be taken. Thereupon the Resolution was withdrawn. After consideration of the matter promised by Sir Malcolm Hailey, the Government of India some four years later caused to be introduced in the British House of Commons a measure the effect of which was that not only Vakil Advocates but members of the Indian Civil Service were to have become eligible to the office of Chief Justice of the Chartered High Courts. This naturally created an alarm throughout the length and breadth of the country that while they were trying to redress one grievance they were trying to put in by a side track as it were the members of the Indian Civil Service, which was resented by all the members of the legal profession, and if I mistake not, by all the commercial communities in this country. That question was very rife when the Simon Commission were taking evidence in this country, and fortunately for us the Honourable the Chief Justice of Bengal was at that time under examination; and Honourable Members will find several pages devoted to this question in the printed extract at page 413 onwards as regards the view which the Chief Justice of Bengal took on this very momentous question. I put to him two questions and my questions were these. I said:

"Under the Government of India Act you have the apportionment of the Judgeships of the High Court, one-third from the Bar, one-third from the Civil Service, and one-third from elsewhere. Now is it not a fact that in Bengal the judicial branch of the Indian Civil Service is getting more and more reduced in view of the policy of Indianisation and the establishment of the Provincial Civil Service?"

In other words, a very large number of appointments of District Judgeships which were formerly held by members of the Indian Civil Service became thrown open to and were held by members of the Provincial Civil Service and by direct recruits from the Bar with the result that it became increasingly difficult to fill in even one-third of the Judgeships of the High Court from the Indian Civil Service. Lest I should be misunderstood or misrepresent the Honourable the Chief Justice of Bengal I should like to read two passages from his replies to these questions.

The Honourable Sir James Crerar (Home Member): Will the Honourable and learned gentleman tell us exactly what the substantive and relevant part of the Chief Justice's opinion was?

Sir Hari Singh Gour: That is just what I am reading. My question to him was question No. 117, and this is the reply which he gave:

"It is the policy of Government more and more to fill the Sessions Judge's posts with people who are not from the Civil Service and their declared policy is to make the numbers of such people I have forgotten whether it is 40 per cent., or 60 per cent. In my judgment it will not be right when that policy is carried out to have a reservation of so much as one-third for the Indian Civil Service members who are no longer to be the only cadre from which Sessions Judges are to be drawn."

Then Lord Burham interjected a question which is question No. 124:

"Would that not lead to further Indianisation of the High Court?"

And the reply was:

"That is difficult to say. In this province we are now coming to a time at which the senior I.C.S. Sessions Judges are mostly Indians. Indians have been members of the I. C. S. for a good many years and quite a large number of our most senior I. C. S. Sessions Judges are Indian gentlemen. So that I do not think there is very much as regards that, but it may tend to a little more Indianisation than otherwise. My own idea is that this one-third principle had better be abandoned."

That is the decided opinion of the Chief Justice of Bengal and that opinion is based upon the fact that while in the past the District and Sessions Judgeships were filled by the members of the Indian Civil Service, they are being largely filled, and increasingly largely filled, by members drawn from the Provincial Civil Service and members directly recruited from the Bar. Now, that being the position, it stands to reason that when you have a smaller number of members, when this ratio of one-third must sooner or later be abandoned if the view of the Chief Justice of Bengal is followed—and I think it is a very sound view—then you will have a very small number of men drawn from the Indian Civil Service to become Puisne Judges of the High Court. Then, if you are to relax the condition which has been put in section 101 (4), you will have a very narrow circle for selection from the Indian Civil Service for the high office of Chief Justice of a High Court. That is the first point, a question of practical moment, but that is not all. The most important consideration that must have weighed with the draftsmen of the Government of India Act and with the British Parliament is to keep the judiciary absolutely and as far as possible independent of the executive. As is pointed out in another question,—it is a long question and a long reply and therefore I do not wish to tire the House by reading it,—but in my question to the Honourable the Chief Justice I pointed out that the High Court has got the power of supervision, direction and control over the subordinate judiciary; and that the Chief Justice, as head of the High Court, if the Chief Justice is drawn from the Bar, would be able to take that detached and impartial view, uninfluenced and unaffected by the view of the executive, in carrying out a purely judicial policy by controlling the subordinate judiciary and partially influencing the decisions of that subordinate judiciary. I think that was the underlying policy, and ever since the dawn of British rule in this country the Chief Justice of a High Court has always been a professional man drawn from the Bar, and I do not see any reason why this salutary principle which we find enshrined in the Statute should be departed from. Honourable Members will see that in 1928, when that Parliamentary Act was before the House of Commons, the Bar Associations all over India took the earliest opportunity of cabling to the then Secretary of State, Lord Birkenhead, against the reactionary recommendation of the Government of India to the effect that the Chief Justiceships should be open alike to members of the Vakil Bar as well as to the members of the Indian Civil Service; and throughout the country Resolutions were passed to the effect that if you are going to let in both, the Vakil Bar would be quite content to let section 101(4) of the Government of India Act remain in spite of the injustice that it causes to the members of the Indian Bar. The pressure and volume of public opinion in this country was so great that in the House of Commons the Under Secretary of State had to abandon the

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Bill, and that Bill died a natural death. Therefore, Sir, in the short historical retrospect I have given, I have pointed out that the Chief Justice of a Chartered High Court has always been a professional man drawn from the Bar, while we on this side are unanimous that the distinction between a barrister, a vakil and an advocate should be eliminated so that all alike, so long as they are members of the Bar,—and they are all members of the Bar,—all members of the Indian Bar, whether barristers, advocates or vakils, should be eligible for appointment to the Chief Justiceship of the Court. We draw a line, and we are as strongly opposed now as we were in 1928 to the appointment of a member of the Indian Civil Service to the high office of Chief Justice of the Indian High Court. That, in substance, is the Resolution for which I want the unanimous support of the House. I need hardly point out to Honourable Members that the whole of the Government of India Act is now in the melting pot, and if I mistake not, the Franchise Committee or some other Committee have recommended the establishment of a Supreme Court in India. Now, that Supreme Court in India will be drawn purely from the Bar, because it will be the translation of a court sitting in England known as the Judicial Committee of the Privy Council operating in India, and if a member of the Indian Civil Service becomes the Chief Justice of the High Court, we shall have broken in upon a long and honourable tradition of the Indian High Courts and an encroachment is possible upon the sacred domain of the Supreme Court that we are about to establish in this country. Honourable Members will probably remember—and if they don't they may take it from me—that during the long and glorious history of the Judicial Committee of the Privy Council dealing with Indian appeals, there has never been an occasion when a member of the Indian Civil Service has been appointed to that office, and I am sure if such an attempt had been made it would have been not only resented in this country but would have been resented by the English Bar Council as an encroachment upon their ancient privilege that all judicial appointments must and shall be held by professional men and not by service men. So far as the judiciary of England and the Colonies is concerned, it is a matter of common knowledge that the judiciary in all the major Colonies of the British Commonwealth as the judiciary in England, including the subordinate judiciary known as the County Council Judges, is drawn from the professional men. You will never find a single example of a member of the Home Civil Service or Colonial Civil Service appointed to discharge the duties of a judicial office, any more than you will find a member of the Home or Colonial Civil Service appointed to be the Civil Surgeon of a district. Now, Sir, everything is possible in India; but Members on this side of India must unite in their view that law has now become a highly technical and scientific profession, and we do not want amateurs to dabble in such a highly scientific and technical subject as law. Therefore, I ask Honourable Members on these Benches to support this Resolution.

Let me summarise in a few words what I have said so far. In the first place, I want your support on the ground that it has been the invariable practice and it is embodied in the present Government of India Act that the Chief Justice of a High Court shall be a barrister or an advocate and that no departure should be made from that practice. In the second place, this provision of the Government of India has been inserted after due deliberation by the British Parliament, and time has

shown the usefulness and wisdom of its insertion in the Government of India Act. In the third place, if you were to permit inroads by the members of the Indian Civil Service upon these high judicial appointments, you will not be able to get the same class of men today and in the near future as were available in times past when the Indian Civil Service had the monopoly of subordinate judicial posts such as those of District and Sessions Judgeships. Fourthly, I submit that the time has now come when, in view of the great complexity of the Indian law, in view of the numerous decisions that the High Courts give from day to day, you require specialists in close touch not only with the Statute law but the leading case-law, and a professional Judge should be placed at the head of the judiciary. Fifthly, you must remember that the judiciary is the palladium of the peoples' rights. It stands midway between the executive and the people, and you must therefore preserve the integrity, the impartiality and independence of the highest judiciary in this country, and that detachment, independence and impartiality can only be safeguarded by drawing a man who is not associated with the executive service. Lastly, I say that we have now come to a stage when we want that this restriction as regards the one-third for the members of the Indian Civil Service should be removed. As I have pointed out, that is the opinion of a high judicial authority, and if it were not his opinion, that is the opinion of the representatives of the people of this country. While we are anxious, therefore, to see that the technical branch of the law is placed in the hands of experts, we cannot make a departure that the head of the technical department should be any but a lawyer. On these grounds I commend this Resolution to the favourable consideration of the House.

Mr. President: Resolution moved:

"This Assembly recommends to the Governor General in Council to convey to His Majesty's Government that in the opinion of this House the Chief Justice of an Indian High Court shall be a Barrister, a Vakil, or an Advocate, and not a member of the Indian Civil Service."

To this Resolution notice of an amendment* has been received from Mr. Bhuput Sing. Before calling upon him to move the amendment, I should like to draw his attention to the fact that in one part of his amendment he tries to expand the scope of the motion. I will draw his attention to Standing Order 33, which says that an amendment must be relevant to and within the scope of the motion to which it is proposed. As the Honourable Member wishes to widen the scope of the Resolution by including the other Judges of the Indian High Courts, I would ask him, if he wishes to move his amendment, to move it without those words.

Mr. Bhuput Sing (Bihar and Orissa: Landholders): I do not want to move the amendment.

Mr. President: The whole of the amendment?

Mr. Bhuput Sing: Yes, Sir.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, I have listened with very great interest to the speech of my Honourable friend Sir Hari Singh Gour, but so far I have

*"This Assembly recommends to the Governor General in Council to convey to His Majesty's Government that in the opinion of this Assembly the posts of Chief Justices and other Judges of Indian High Courts should hereafter be reserved for Indian Barristers, Vakils, and Advocates."

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not been able to understand the occasion for moving this Resolution at all. The interesting retrospect which with his personal experience he has given to this House brings us to the point that a Bill which was attempted to be introduced and passed in the House of Commons has been rejected (*Sir Hari Singh Gour*: "Not rejected")—I suppose technically it was not rejected, at any rate it is not alive, it is dead, or it is in a moribund condition until somebody revives it some day,—I do not know when, probably in the Greek kalends. At any rate, we are exactly in the same position—I understand, I am talking subject to correction,—I understand, that we are in the same position as we were when the Government of India Act was passed. Now, you make a recommendation when there is a necessity for doing so, or when there is an occasion for doing so. I do not see any necessity at all for this Resolution, because at present, taking the opinion of the Chief Justice of Bengal himself, there is a very good chance of Indian members of the Indian Civil Service being called upon to fill up judgeships in the High Court. You cannot say in that numerous body of highly educated civil servants there is not a single man who could not occupy the post of Chief Justice with sufficient independence to direct, to control and to superintend the subordinate judiciary. I know in certain matters the Indian civil servant is not quite a *persona grata*, not certainly with me—I have got a good deal of grievance against him. But what I do submit is that the distinction which is now attempted to be created in a state of things which does not seem particularly to call for any alteration is a matter which I have not been able to understand. I am entitled to say that. I do not understand,—I quite admit—I do not understand why this Resolution was moved. Even now if my Honourable friend could enlighten ignorant people like myself, inexperienced people like myself and say why he is troubling this House with this long Resolution I should be greatly obliged for it; probably it will cut short my speech. I do not want to speak merely for speaking's sake because the Statute requires a barrister to be appointed and the Government of India are already committed to extending the right to Vakils and Advocates.

Sir, in the olden days the Indian Law Reports teemed with decisions of Judges who belonged to the Indian Civil Service. In Madras there was a Judge by the name of Mr. Holloway, whose judgments are quoted even today with very great authority and respect. I have no doubt that there are other Civilian Judges in other parts of the country who are equally eminent. Therefore, my point is this. Don't make a distinction, but make it a convention, unless you find that the trouble is so great that the civil servant always becomes an ubiquitous occupant of the Chief Justiceship, interfering here, interfering there, and interfering everywhere. I understand the contention to be that if you are a member of the Indian Civil Service, you won't allow the Judgeship to become an independent position. I do not want to say anything which might be considered as an attack upon any Judge anywhere, but it seems to me that a few instances might be quoted where the Indian public had been attacking other than Civilian Judges and saying that they were not sufficiently independent or that they did not uphold the independence of the judiciary in important matters; at any rate quite recently where the people and the Government came into conflict. Therefore, it is not a question of being a member of the Indian Civil Service, or of a particular race or a particular nationality. It depends upon the temperament, the environment, and the upbringing of the men who belong to this service or who are appointed to

this service. I submit that this Resolution being premature need not have been moved at all, but having been moved, and my friend, who has been very anxious to transfer the Judicial Committee to India as well as to have all these appointments for the members of my profession—I hope I am entitled to say that,—having aired his views, and the House having heard what he has got to say, I think this Resolution ought to be withdrawn.

Mr. Jagannath Aggarwal (Jullundur Division: Non-Muhammadan): Sir, I was rather surprised when my Honourable friend the Raja Bahadur spoke about the necessity or the occasion for this Resolution. In fact, I rubbed my eyes, and the cheers from the opposite Benches confirmed me in that impression, that the Raja Bahadur was sadly mistaken; as a matter of fact, I wondered if the Raja Bahadur had been awake all these months. Little need I remind the Raja Bahadur that the constitution of the Government of this country, High Courts included, is in the melting pot. Several committees are deliberating on this matter and several important Members of this House—one of them I see opposite, and another in that quarter—were very recently engaged in London in the work of framing a constitution including the constitution of a Supreme Court and of High Courts, for this country. And my learned and Honourable friend the Raja Bahadur, for whom I have the greatest regard and esteem, has got so used to being ignored along with other Members of this House in the framing of this constitution—that is part of the slave mentality—that he wonders why this Resolution has been brought in. I hope the House will pardon me if I remind him that this is the most opportune moment when a question like this should be taken up. It is in the fitness of things that it is there, and I hope that my Honourable friends opposite will also realise that it is not premature, that it is not misplaced, and that this is the proper time to take it up.

As to the merits of the Resolution itself, I have great pleasure in supporting it, and my reasons are briefly these. As at present constituted, the Government of India Act, section 101 (4), provides:

> "Provided that not less than one-third of the judges of a High Court including the Chief Justice but excluding additional judges, must be such barristers or advocates as aforesaid. . . . ."

This has been construed from the time of the Regulating Act when the Supreme Court of Calcutta was constituted up to the present day, as meaning—and, Sir, this is an important point and I wish to emphasise it—as meaning that the Chief Justice of a High Court must always be a barrister. Whether this interpretation is justified by the exact words or by the language used is not for me to consider. It will be dangerous for any one to hazard a contrary opinion where the highest law officers of the Crown in England and in India have not dared to put a contrary interpretation upon it. Nobody has been able to say that you can under the present section appoint any one other than a barrister as a Chief Justice. Therefore, according to convention which my Honourable friend wants, according to practice, according to the language of this Statute, for 150 years since the establishment of British rule in this country the Chief Justice has always been a barrister. If that is so, those who want a change must justify it. Now, Sir, what is the change that we want? This high post, reserved for members of the English and Scottish Bar from days of old, is now sought to be thrown open to other members of the Indian Bar. I will presently justify to you this change, but I would like to ask Government where is the person who has advocated in public—not

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in official archives—but in public, to the outside world the introduction of a change that this high post should be thrown open to the members of the Indian Civil Service? No agitation in that connection, no demand in that connection has ever gone forward from any commercial body, from any legal body, or any other public body.

Now, Sir, the reason why I say that one change is justified and there we stop and the other change is not justified is shortly this. The Chief Justice of a High Court holds a position in the constitution of this country which means that the Court over which he presides has to hold the scales even not only between subject and subject but at times between the executive Government and the subject. He has to uphold the constitution, to interpret the constitution and at times to prevent any encroachment by the executive on the rights of the people, and in the future constitution this question of the interpretation of the constitution will become still more important. If that is so, it becomes all the more important that a person holding this important office should be free from all leanings towards the executive, from any unconscious bias that a life of executive work may have imparted to it. I do not for one moment suggest that members of the Civil Service have not up till now been able to discharge the duties of their high office in the various High Courts efficiently and properly. There have been a number of Civilian Judges for whom one could have the highest respect, but that is not the question. It is not a question of individual merit. It is a question of a fundamental principle, and that fundamental principle is the independence of the judiciary from executive control. What is more, it is not only the actual interference that should be avoided; they should not even have the semblance of being under executive control. The influence of the executive services should be absolutely out of it. The High Courts are not to be converted into a department of the executive Government. If you are at liberty to appoint civil servants after three years experience as District Judges to the high office of Chief Justice, then the High Courts can be converted into departments of Government. The main point underlying this proposition is that men of an independent profession shall be placed in charge of these posts and there we stop. Now, Sir, this important aspect of the question was brought out quite recently when a Bill was introduced into the British Parliament in 1928 by Lord Birkenhead. That Bill proposed to throw open the office of Chief Justice not only to vakils and others but also to Civilian Judges. I submit that the provision throwing open the post to Civilian Judges was not justified. I submit with all respect that this is not a racial question at all. The Civilians may rule the whole country, but this is the one department which should be free from Civilian encroachment. All sections of the community supported the demand of the Indian people that this office should not be thrown out to Civilians. I would particularly draw the attention of the House to what the leading European papers then said. I wish to read to the House a few extracts and I hope that my learned friends in that part of the House will take particular note of it and support me, because I attach particular value to the support from those quarters, from gentlemen who do not belong to the legal profession. The *Pioneer* in dealing with this Bill introduced by Lord Birkenhead, wrote:

1 P.M.

"In dealing with a measure vitally affecting the profession to which he belongs, it might have been expected that Lord Birkenhead would have been able to avoid mistakes. But His Lordship has blundered badly over the Indian High Courts Bill which he introduced in the House of Lords towards the end of last month. The idea of the Bill is to equalise the position under the Government of India Act of barristers, advocates and pleaders as respects qualifications for appointment as Judges of High Courts and the proportion of such judges required to possess special qualifications. These objects are excellent and are in accordance with wishes widely expressed by the legal profession in this country."

Then it goes on to state:

"The Bill seeks to open the post of Chief Justice to members of the Indian courts who have not the qualification of barrister. It is explained in a cable which Sir J. B. Kanga, Advocate General of Bombay (who was Knighted on the King's birthday) has, as President of the Bombay Bar Association, sent to the Secretary of State. This cable expresses 'great surprise that the Bill, while throwing open the office of Chief Justice to advocates and pleaders also makes civilian judges eligible for the said post. This is a grave departure from established law and tradition for more than a century that the Chief Justice must be a member of the Bar and not a civil servant'. The protest is thoroughly justified. The obvious objections to a civil servant being the Chief Justice need not be reiterated."

This was in 1928, and I hope nothing has happened since then to change the view held by those whom the *Pioneer* represents. Now, Sir, I shall give you a quotation from the *Times of India* which says:

"The constitution of the High Courts in India is now governed by section 101 of the Government of India Act of 1915. . . . . This proviso has always been understood to require that the Chief Justice must be a barrister and in practice up to now none other than a barrister has ever been appointed to be the Chief Justice of any of the High Courts in India. This was perhaps necessary while the pleader bar was in its infancy and the association of the English barrister with Indian High Courts has been most beneficial to the development of the latter inasmuch as it was through the English barristers, on the bench and at the bar in Indian High Courts, that the great principles and traditions of the High Courts of Justice in England came to be established here. But times have now changed; the pleader bar has grown strong and produced great lawyers of the type of Dr. Rash Behari Ghosh and Sir Bhashyam Iyengar in all the High Courts. It has been felt for some years past that there is really no substantial reason for excluding the pleaders or advocates of the Indian High Courts from aspiring to the office of Chief Justice. The question assumed prominence in Bombay recently when but for the statutory bar, the late Sir Lallubhai Shah who was the senior puisne judge and had acted as Chief Justice more than once would have been appointed to the great office. The question was raised in the Legislative Assembly and the Government accepted the recommendation that the section be so amended as to remove the bar. Now a Bill is to be introduced in Parliament for amending the section but it goes much further than any body in India asked for. If the section is amended as proposed the office of the Chief Justice will be open not only to pleaders but also to members of the Indian Civil Service. This in the opinion of the profession would make the remedy much worse than the disease. Sir Lallubhai Shah, it is said, felt so strongly on the point that he stated he would rather go without any amendment than that it would lead to the door being thrown open to civilians as well. There are very cogent general reasons for excluding members of the Civil Service from holding the office of the Chief Justice. It is essential for the independence of the High Courts in India that the Chief Justice should not be a member of the permanent services. With a civilian at its head there would be a danger of the High Court becoming a mere department of Government. In fact there has been strong agitation in the past against the appointment of civilians to be Judges of a High Court. Their appointment is undoubtedly an anomaly arising out of the peculiarities of Indian administration. However, it is not on the ground of fitness that the appointment of civilians to the post of Chief Justice is to be opposed. It must be recognised that there have been great civilian judges and at the present day some of the ablest of our judges are civilians. It has also to be recognised that the civilian judges of the High Courts have never, so far as we know, agitated for the office of the Chief Justice being thrown open to them. The proposed amendment is, therefore, all the more amazing. It may be due to inadvertence. If it is deliberate, it seems inexcusable."

These are weighty pronouncements. I need not refer to various other expressions of opinion from Indian quarters.

Mr. President: The Honourable Member has only one minute more.

An Honourable Member: What about the *Statesman*?

Mr. Jagannath Aggarwal: I could not lay my hand on the paper, but I think the *Statesman* also supported me in this connection. I have great pleasure in supporting the Resolution and I hope the House will carry it.

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 in the Chair.

Sardar Sant Singh (West Punjab: Sikh): Sir, I rise to support the Resolution so ably put forward by the leader of my party, Sir Hari Singh Gour. I do not know what attitude the Government are going to adopt in relation to this Resolution, but judging from the remarks and the reception given to the remarks of Raja Bahadur while he was speaking on this Resolution, I find that this side of the House should expect opposition from the Government quarters. But before the Government commits themselves to any attitude on this question, I may be permitted to remind them of what their predecessors said in the course of debate on similar Resolutions when they were moved in this House and in the Council of State. When Diwan Bahadur Rangachariar moved a Resolution for the removal of the distinction between barristers, vakils and pleaders, it was given out by the Honourable the then Leader of the House that the Government were in sympathy with that Resolution and that they would take the necessary steps to get the Government of India Act amended for the removal of the distinction. The same question came up in the Council of State in the year 1927 on a Resolution moved by the Honourable Mr. Ramadas Pantulu from Madras. The Government attitude in the Council of State then was very favourable to the Resolution. I may be permitted to read a portion of what Mr. H. G. Haig, the Home Secretary, then said:

"Whatever may have been the original intention of the section, Sir, the Government of India are in entire agreement with my Honourable friend that it is not reasonable to differentiate against vakils in this manner, and they have already addressed the Secretary of State in the sense recommended."

Similarly, when the same Resolution was moved in that august assembly on the 15th February, 1928, by Sir Phiroze Sethna, the same attitude was adopted by the Government in the matter. Now it may be said that on that occasion no question arose whether members of the Indian Civil Service were or were not eligible for the post of Chief Justice of a High Court. But to such a question my reply would be that, if it is true that the Government of India, before committing themselves to the principles of these Resolutions, consulted the Secretary of State for India on the subject, then it is probable that the nature and scope of the contemplated amendment of the Government of India Act must have been decided upon. In such a case the Government of India will open themselves to the charge of suppressing the truth from the Members of this House as well as from those of the Council of State if they now take up the attitude of opposition. Therefore, I would submit, with all due respect, that the Government of India stand committed to the limited interpretation of section 101 as put forward by the present Resolution before this House.

Coming to the merits of the case, I would ask one question. What is the attitude of the Government in this matter? Do they want that the administration of justice in this country should be under a department of the executive authority? Do they want the executive authority to reign supreme even in matters where the administration of justice is concerned? I may remind Honourable Members while on this point that it is not only necessary that justice should be done, but it is also an essential feature of good government that the people should feel that justice has been administered to them. You cannot say, while sitting as Judges that you have done substantial justice between man and man, between the executive and the subjects, but you should inspire a corresponding feeling in the people that justice has been done to them. In order to make them feel like that, they should feel confidence in the fountain of justice, without having a shred of suspicion that the Judge who has administered justice is not capable of administering justice, or has not been brought up in the institutions where legal training and justice predominate. Now my submission would be that if you want to inspire people with confidence in the purity of justice, it is absolutely essential that the Chief Justice of a High Court should be a gentleman brought up in the traditions of law, and in an atmosphere of independence. My Honourable friend the Raja Bahadur wants to know what is the occasion for bringing forward such a Resolution, when as a matter of fact no Bill is pending before Parliament and that there is no reason to suppose that the Government intend to depart from the Statute or convention that the Chief Justice of a High Court should be a barrister, a vakil or a pleader. The answer has been furnished to Raja Bahadur by my friend, Mr. Jagannath Aggarwal, who has told him that the occasion is the constitution-making that is going on at this time wherein is included the constitution-making of the High Courts. At the same time I would like to inform him, and I speak subject to correction, that Lord Sankey is contemplating that in the future structure of the High Courts the office of Chief Justice should be open to the members of the I. C. S. cadre. Well, of course, I speak subject to correction and would expect the Honourable the Home Member to deny it if it is wrong. If this be so, then the occasion has arisen for this Assembly to come and make it clear to the authorities that be that Indian opinion would not tolerate this amendment of the Government of India Act. In this particular case the opinion given out by the various newspapers and the various bodies is very germane. In a meeting held on July 16th, 1928, by the Sheriffs of Bombay, Sir Joseph Kay, who presided over it, made the following remarks:

"He (Sir Joseph Kay) declared this was not a racial question, nor was there any feeling that barrister judges were better than civilian judges, many of whom had been very distinguished judges. What was involved was the principle of keeping quite separate and apart the executive and the judiciary, and it was submitted that the judiciary should be perfectly independent of the Government. . . . . To his mind it would be a great disaster if anything was hastily done which would in one iota destroy the confidence which the people of India always had in the impartial administration of justice by High Courts, which had always stood for a true and correct rendering of law."

This Resolution was unanimously carried. The meeting was composed of both Indians and Englishmen.

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): Was there any I. C. S. man in the meeting?

Sardar Sant Singh: You ought to know better, should you not?

[Sardar Sant Singh.]

Then there was another meeting in which Sir Chimmanlal Setalvad moved a Resolution which tells very strongly against this innovation if it is contemplated. It ran thus:

"This meeting of the citizens of Bombay begs to draw the attention of the Government of India and the Secretary of State to the fact that the Indian High Courts Bill, now before Parliament, introduces a far-reaching change in the wholesome tradition and law in force for over a century, by making civilian judges eligible for the office of Chief Justices of High Courts; this meeting is strongly of opinion that a change of this character in the present law should not be carried through without giving an ample time to the public opinion in India to express itself."

Whilst speaking on this Resolution, Sir Chimmanlal Setalvad said:

"One thing which made for the stability of the British Government in India was the public faith and confidence in the administration of justice in High Courts."

Mr. President: May I draw the Honourable Member's attention to the fact that he has got only two minutes more?

Sardar Sant Singh: I will finish my speech soon. Sir, similarly, the *Hindu* remarked:

"As we have already pointed out, it is undesirable, in the interests of sound judicial administration, that civilians should become Chief Justices, because they have not been nursed in the traditions of the Bar. Moreover, the duty of upholding the majesty of law is best entrusted to those who have devoted their whole life to the service of law and justice."

I have not been able to get at the opinion expressed by the *Statesman* of Calcutta then, but I find in an article published in the *Tribune* of 20th June, 1928, which is a quotation from the *Statesman* the following:

"One feels tempted to ask with the *Statesman* is England not dishonest?"

Now, taking this to be the feeling of the country in regard to this innovation in the Government of India Act, I submit that this Resolution should be accepted by the Government as put forward now. I therefore support the Resolution.

Mr. S. G. Jog (Berar Representative): Sir, I think it is my duty to give expression to my feelings on the subject as it is a question of vital importance to the profession to which I have the honour to belong. I must also congratulate the leader of our party, Sir Hari Singh Gour, for having given us the history of the case and having placed sufficient material before us. Even after hearing the history of the case, my friend Raja Bahadur Krishnamachariar could not understand or would not understand the propriety of this Resolution. It is generally said that wisdom goes with age, but I am sorry to find that in this particular case it has failed my Honourable friend.

An Honourable Member: It has gone out!

Mr. S. G. Jog: I hope it will come back soon. After hearing the history of the case, it is really surprising to me how my friend the Raja Bahadur could not see the danger in it. A Bill has already been introduced and when an attempt was made to redress one wrong, a definite attempt was made to introduce another evil along with the innovation. An attempt was made to take away all the differences between the barristers, the advocates and the vakils for eligibility for the appointment of the High Court Judge. Instead of redressing that grievance, another evil was attempted

to be introduced and that was to throw open the appointment of the High Court Chief Justice to the I. C. S. people. Somehow or other the whole thing was fortunately dropped, but the danger is still there. As prudent men, I think that we should take necessary precautions to avert the danger that threatens us now. I think my friend Raja Bahadur Krishnamachariar is aware of the maxim that you cannot dig a well when you feel thirsty. You have got to make previous preparations and keep water ready so that whenever you feel thirsty you can drink water out of it. My friend, Sardar Sant Singh, has also told us most convincingly—I know not the source of his information—that in the new constitution an attempt will be made for introducing the I. C. S. element and making it eligible for the posts of the High Court Judges. With this warning before us, I think the discussion of this Resolution is not merely an academic one, but I think it is necessary that we should take definite steps to avert the danger. The Resolution as it is worded is a very innocent one, and I will appeal to the Treasury Benches not to look at it from the racial or communal or any other point of view or as a question between the Governors and the governed. There is nothing of that sort in it. The I. C. S. people as a class have been styled the "steel-frame" of Indian administration, and I have not lost any respect for that class as a body of efficient administrators in other departments. But now we are concerned with the administration of justice. So far as the administration of justice goes, the I. C. S. people who work from below as Magistrates and also as executive officers are unfit to administer the responsible duties of a Chief Justice. When I say this, I do not mean to cast any slur or condemnation on the I. C. S. class or caste as it may be called. If anybody tells me that as I am a pleader, I am therefore unfit to hold the post of a doctor, there is no condemnation in it. I am certainly unfit to carry on the duties of a doctor.

So also in this case having worked as magistrates and administrators you have rendered yourselves ineligible and in a way unqualified to hold the post of Chief Justice. If you look at it from this point of view, I think you ought to agree to this Resolution that you are not in any way sufficiently qualified for holding the post of a Chief Justice. Therefore I support this Resolution and I request you all to join in supporting this Resolution.

The Honourable Sir James Crerar: Mr. President, I am confident that the Honourable and learned gentleman from Nagpur who moved this Resolution will be neither surprised nor disappointed at the fact that I should rise to oppose it, because for the last five or six years since the subject matter of this Resolution has attracted attention, the attitude of the Government of India has been consistent. It is, that, while they recognise that some changes in the law regulating the constitution of High Courts might now reasonably be made, they should be made on the general basis that all those who are qualified to be Judges of High Courts should, without any invidious distinction, be regarded as eligible for selection to the post of Chief Justice. For my own part equally I am neither surprised nor do I feel any resentment that the Honourable and learned gentleman should have made himself responsible for this Resolution. He belongs to that very eminent body of public servants, the Bar. We know that the Bar in all parts of the world is a very close corporation, and in proportion as it discharges useful and invaluable public services, it also naturally enough has a very high consciousness of its own merits. It is

[Sir James Crerar.]

very jealous of its own privileges and it does not regard, with a very indulgent or encouraging eye, any ambitions, any proposals, any suggestions which might conceivably appear to trespass on or invade the territory which it is disposed to regard as its own. Now, Sir, while that may very naturally be the attitude of the Bar and I, for my part, take no exception to it, I must demur to the plea made by the Honourable Member. I accept as natural the arguments which he and his friends have urged, as emanating from very distinguished representatives of the Bar; but when he implied that the line of argument which he pursued was the only one which could reasonably be pursued in the public interests of the country, I say I demur. On the contrary I venture to say that I can approach this question from a somewhat more detached point of view and I do claim that in the few remarks which I shall have to make upon the Resolution, the sole principles to which I shall appeal are the proper administration of justice and the general public interests of the country, and not the interests of any particular class whatever. That the Honourable Member should have made a very strong appeal on behalf of the Bar is, I say, a circumstance to which I take no exception. He has himself entered the ancient and venerable portals of one of our Inns of Court. He has participated from the fountain-head in all those great traditions of British jurisprudence upon which the jurisprudence of this country is founded. I share with him the respect and admiration with which he speaks of that tradition. He speaks as a Barrister, and I sometimes wonder whether in the seclusion of the Bar Library at Nagpur the Honourable and learned Member has not sometimes cast a longing, lingering look behind. I have myself frequently heard from very distinguished Indian Barristers that they themselves hold very strongly the view that the Chief Justiceship of all the High Courts in India should continue to be reserved for Members of the Bars of Great Britain. I have heard that very strongly urged. The Honourable and learned Member laid before the House what I think to be an alarmist estimate of the consequences against which this Resolution is presumably directed as a cautionary or as a preventive. He suggested that some years ago, when a Bill was before Parliament having the effect of throwing open in the matter of eligibility the office of Chief Justice to all puisne judges, he suggested that, at that time, the whole of this country was thrown into a state of the deepest alarm and apprehension. He suggested that there was a prospect of the judicial firmament of this country being disturbed by the intrusion of destructive meteors and comets, of the rising of baneful stars which would destroy the atmosphere of calm and stability in which the judicial luminaries of this country have hitherto directed its legal destinies. I think the Honourable Member has attempted to convey to the House an unduly pessimistic view of the position. The Honourable Member, besides having contributed some very weighty treatises to the jurisprudence of this country, has also interested, entertained and edified large sections of the public with other literary works in a lighter vein. He has written a volume entitled "Random Rhymes" and another entitled "Passing Clouds", and I would venture to suggest to the Honourable Member that it would be well for him to recapture some of the cheerful, but nevertheless considered, optimism in which he wrote "Passing Clouds". I would ask him to believe with me that the apprehensions which he so vehemently expressed in moving this Resolution are after all "passing clouds". I am the more encouraged in that view because I observed that

the Honourable and learned Member, who is a very experienced and able advocate, took the course which is commonly taken by an advocate who is not very deeply impressed with the validity of his own case. The Honourable Member devoted two-thirds of his interesting, eloquent and learned speech to two issues, one of which is in no way relevant to the issue before the House and the other, if it is relevant at all, is relevant in the sense that it is completely repugnant to the terms of the Resolution which the Honourable Member seeks to induce this House to endorse. I share to the full the Honourable Member's expressed admiration for that great tradition of British jurisprudence on which the jurisprudence of this country is based. It is in fact largely the consciousness of that fact, it is largely the practical considerations which flow from recognising that fact, that we have the law as it is at present, (somewhat obscurely I admit), stated or as it is at present interpreted, in the terms of the Government of India Act. And the practical consideration and one of the most important factors is this, that, quite apart from what may be the actual contents of a system of jurisprudence, the terms of the statute law, the effect of case law and so forth, it is of the utmost importance that the administration of that code of law should be conducted in accordance with the great tradition which lies behind it. The advocates of the existing state of the law have urged over and over again with great force, with great pertinence and with great learning, that it is of the utmost importance to India that in her High Courts of Judicature there should be maintained a direct contact, not only with the contents and the principles of British jurisprudence but with the spirit and the tradition in which it has been administered and with the practice of the Bench and of the Bar. The Honourable Member endorses that proposition with great fervour. Sir, I am not concerned to controvert it; but I venture to point out that, in proportion as the Honourable Member expended his eloquence, his learning and the fruits of his experience on this issue, he has impaired the contention which he lays before the House in his Resolution. Now, I do not propose, as I said, to detain the House at great length. I will only advert once more to the fact that from the Honourable Member's own speech I could extract some of the most powerful arguments against the acceptance by this House of the Resolution. But I will pass on to considerations which are perhaps a little more pertinent to my own argument, and what I should like to point out to the House is this. It will be commonly agreed that it is of the greatest moment to the proper administration of justice in this country not only that that contact, that direct continuity with the traditions of British jurisprudence should be maintained, but there should be represented on all the highest courts of judicature in this country the widest measure of judicial experience that is possible. That I think is a position which will not be controverted even by the Honourable and learned gentleman from Nagpur. And what follows from that consideration? Our High Courts mainly sit and do justice at the headquarters of the province or of the Presidency of which they are the supreme judicature. But by far the greater part of the judicial administration of this country arises not within the original jurisdiction of these High Courts or within the territorial limits of the cities in which their Benches are situated, but it arises up-country, in the mofussil. Civil suits are tried by an infinite number of civil courts; the greater part of the most important criminal business in the country comes in the first instance before the magistrates and the Courts of Session. The District Courts try in the first instance all the most important cases of civil litigation arising

[Sir James Crerar.]

outside headquarters towns. And there is no body of Judges who obtain a more intimate and a more close acquaintance with that enormous proportion of the whole body of legal business transacted in this country than the Judges drawn from the ranks of the Indian Civil Service, and I may add, of that other very worthy and trusted class of public servants which has been singularly neglected by Honourable Members opposite, the Judges of the Provincial Civil Service. I maintain, Sir, that it is of the greatest importance to the most vital interests of this country that that vast body of judicial experience should not be excluded from the highest Benches of Judicature in the land. And though I acknowledge with gratitude that very few Honourable Members opposite have any words of individual disparagement of the Judges drawn from the ranks of the Indian Civil Service or the Provincial Service, nevertheless a very serious implied general disparagement has been cast upon Judges drawn from implied general disparagement has been cast upon Judges drawn from those sources, many of whom, as the Honourable gentleman from Madras pointed out from his own experience, can challenge both in their judicial knowledge, their judicial experience, their judicial ability and their independence the most eminent Judges drawn from any other source whatsoever. I must, in particular, repel the suggestion that the presence of Judges drawn from the Indian Civil Service in the High Courts of India has in any way impaired the complete independence of these High Courts. I deny, Sir, that any Honourable Member opposite who has used that argument in general terms is capable of giving a single instance on the floor of this House to substantiate his contention.

3 P.M.

Let us now follow that argument a little bit further. Sir Hari Singh Gour in the course of his speech made a plea which I presume he intended to be a plea of general equity that, "All shall be treated alike so long as they are members of the Bar". Why not take the proposition on to a somewhat higher plane and say that all should be treated alike so long as they are members of the same High Court? I think, Sir, that that at any rate is a reasonable proposition; and I, for one, cannot accept for a moment the suggestion that this House should commit itself to an invidious distinction against one class of Puisne Judges of the High Courts in this country who have deserved extremely well of the country in the past, and who I am confident will continue to deserve extremely well in the future. The Honourable and learned gentleman in the course of his argument appealed to authority. He quoted at some length certain evidence given by the present Chief Justice of Calcutta. That he has appealed to so eminent an authority is a very proper thing to do. But, Sir, he made his quotations from the evidence of that eminent authority in that selective manner with which I confess I have been more than once confronted in arguments addressed by the Honourable gentleman to this House. And on this particular point as to whether or not all Puisne Judges, all persons now qualified to be Puisne Judges of the High Courts in India should be eligible at any rate for appointment to the post of Chief Justice, what did the present Chief Justice of the High Court of Calcutta say? He said this:

> "As regards the question of whether other persons should become Chief Justice, I go no further than this that I think that persons who have been Judges of a High Court for not less than 5 years might be made eligible to be promoted to be Chief Justice. Whatever be the path through which they came into the High Court, if they have been Judges of the High Court, say, five years or some period like that, I do not think that they should be excluded from the chance of being Chief Justice."

Now, Sir, of all the evidence given by the Honourable Sir George Rankin before the Statutory Commission, none was so pertinent as this to the question immediately before the House, and I suppose it was the Honourable and learned Member's ancient experience and his own conception of the arts of advocacy that led him to the singular conclusion that it was as well that the House should not be presented with that particular item of evidence.

Sir Hari Singh Gour: Sir, may I interrupt the Honourable the Home Member? The learned Chief Justice of Bengal very unequivocally stated that the present reservation of one-third of the posts to members of the Indian Civil Service is no longer justifiable.

The Honourable Sir James Crerar: The Honourable and learned gentleman at the outset of his speech complained that the Bill introduced in the House of Parliament side-tracked the issue. The Honourable Member having moved in this House a Resolution relating to the eligibility of Puisne Judges for the office of the Chief Justice, it is evidently now his intention to draw a very redolent red herring in the form the question of the proportions in which the Courts should be constituted, and which is totally irrelevant to the issue before the House. I am not, however, surprised that the Honourable Member should have endeavoured to divert the attention and the intelligence of this House from an issue which he finds so difficult to support save by expedients of this kind.

Mr. B. N. Misra (Orissa Division: Non-Muhammadan): Sir, I had no intention to take part in this discussion, but the term "Chief Justice" as it is understood in the English language is known in sanskrit as *Prad Bibek*. That means in the widest sense a man whose knowledge has been sharpened to such an extent that he may be called a man possessing broad and independent views on any question, and not a man possessed of what is commonly known as the slave mentality of a public servant, or whose mentality has been framed throughout his service in the interest of public service. *Prad Bibek* or the Chief Justice is entrusted with the most onerous duties, that is the duty of maintaining the legal lore, and he should not be impeached in any way as regards his mentality or training. He is supposed to have held throughout his life independent and broad views, and it is only the profession that retains or gives a man that independence which service, whatever kind it may be, will never give. Sir, our main objection has been to the mentality of the civil service. There may be very good civil servants so far as their loyalty to their service or to their masters is concerned, but so far as their knowledge of men and things is concerned, so far as their legal knowledge is concerned, I doubt very much whether a man from the civil service, barring perhaps a few rare and honourable exceptions, can be found to fill the post of Chief Justice of the High Courts in India. I do not mean to cast any reflection on the civil servants of India; they have rendered good service in their own way to their masters. My point is that to fill the post of Chief Justice only men from the legal profession who have had their training at the Bar should be selected. This is invariably the case in England, in the Colonies and in the Dominions, and there they never select a man from the service. It is our most sad experience that in this country, however eminent, however learned, however well versed in law they may be, no Indians have so far been selected to fill the post of Chief Justice of a High Court, and only white men have always been selected to fill that

[Mr. B. N. Misra.]

post. Why, Sir, there are any number of very brilliant and distinguished vakils, pleaders, advocates and barristers in the Indian Courts from whom a suitable selection can be made to fill the post of Chief Justice. Indians of proved merit and ability in the legal profession are not wanting who can distinguish themselves as Chief Justices of High Courts. We all know that Indians have filled very high and equally responsible positions with credit to themselves and advantage to the country in other spheres of life. I cannot say why for the position of Chief Justice suitable Indians who have had experience at the Bar should not be recruited, and why white men should be regarded as superior to Indians and chosen to occupy the posts of Chief Justices. Sir, in making the appointment of Chief Justice there should be no considerations of race or colour, because we want only pure and unalloyed justice and justice alone. Therefore, Sir, I appeal to all Members of this House without any distinction of caste or race to support this Resolution.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, I had no mind to take part in this debate, because it appeared to me that the Resolution was so very reasonable that it would appeal to every one in this House, and that there would not be found a single individual who would oppose a Resolution of this character, and therefore I did not care to attend to the debate in this House nor to listen to what fell from the Honourable the Mover, and I came here only towards the latter end of the speech of the Honourable Sir James Crerar and I only heard a portion of his speech. After hearig him it appeared to me that it were better if the Honourable Sir James Crerar had not taken up the brief on behalf of the members of a service of which he himself is a brilliant luminary. He will excuse me, and I beg of the members of the Indian Civil Service to excuse me if I say that they may be very eminent administrators, but there is a class of men who are better fitted than they—I do not mean that they are not fitted at all. I do not go to the length of saying that—but I submit that they will appreciate that there is a class of men, *viz.*, the trained lawyers who are better fitted to hold the posts of Chief Justice and Puisne Judges. My own idea is, and I beg to be excused by the members of the Heaven-born service if I give out frankly what my opinion is about the members of the judiciary recruited from the Civil Service and why judges should be solely recruited from the Bar. If you are pleased to compare the judgments of the subordinate judiciary, I mean the munsifs and sub-judges, you will find that whenever their judgments have been upset by Civilian Judges of the High Court—and they have been upset more by Civilian Judges than by others—you will find that the Privy Council has restored the judgment of the sub-judge and reversed the judgment of the Civilian Judge. And if my Honourable friend Sir James Crerar would ask me to point out such instances, I think I can lay my hands on no less than one hundred such reported cases. For the information of the Honourable Sir James Crerar, who himself was a distinguished Sessions Judge, that his idea that members of the Indian Civil Service make very good Sessions Judges is not correct. I shall give him one or two examples which will convince him that there may be exceptions in one or two cases where they have acquitted themselves well, as Judges, but they had been failures in most cases. I know of a Judge who had to dispose of an uncontested probate case. Certain formal evidence had to be gone into, but as soon as the petition was put before him he at

once recorded an order "Probate granted", without waiting for an affidavit or *ex parte* evidence. Another brilliant Judge who adorned the High Court Bench afterwards—I hope Sir George Rainy will kindly excuse me, probably he knows him—summoned *chirodin*—that is how they dispense justice. (*An Honourable Member*: "What is *chirodin?*") When the pleader said they always did it—which translated in Bengali would be *chirodin koriache*. He at once ordered summons *chirodin*. Unfortunately my experience of Civilian Judges has been like that. I can cite amusing stories here for the delectation of the Members of the House, but I do not want to waste the time of the House. Also I think it will not be proper to draw an indictment against an able body of administrators—who may not be good lawyers and good judges, but are good and efficient administrators. I for one have my admiration for that able body of administrators, but at the same time I cannot agree to their being judicial officers. We have found that District and Sessions Judges, who are recruited from sub-judges, have acquitted themselves much better than the Assistant Magistrates.

I think the brief that was taken up by the Honourable Sir James Crerar on behalf of the service to which he belongs need not have been taken up. Every one in this House knows whether they make really good judges on the High Court Benches, or even as District and Sessions Judges. My Honourable friend knows that, but if there is a policy on the part of the Government to restrain and curb the independence of the judiciary, that is another thing. Tell us plainly that, and we shall go away satisfied. But if you say that they are really good judges, I for one could not subscribe to that opinion.

The only bedrock, upon which the foundation of your Empire depends, is the administration of justice and people have still faith in that. And if you bring in a Judge from the Members of the Civil Service who have spent their whole life as executive officers and for a few years as a Sessions Judge and then make him a Puisne Judge of the High Court or a Chief Justice, I submit the quality of justice will suffer. Lawyers who have been trained in the profession of law from their earlier years certainly are expected to discharge the duties of a judge far better than one who had not that training. I hope that the Honourable Sir James Crerar will not deny that. There may be exceptional cases where the Civilian Judges have acquitted themselves very well, but they are very few, and that would not justify us in drawing a conclusion to the effect that the post of Chief Justice should go to them. So, I think in the interests of better administration of justice and preservation of law and order, of which my Honourable friend is at present the custodian, they will also support us in this matter. Open up if you like two or three berths for your meritorious civil servants in other directions, but do not lower the quality of the administration of justice in the land, I mean British justice in this land, by bringing in a class of men as the head of the judiciary when they are hardly fitted to discharge the duties that are expected of a Chief Justice. With these few words I beg to support the Resolution without meaning any disparagement to those there who are laughing, and some of whom have acted as District and Sessions judges and probably expect to become High Court Judges.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): I had no idea of taking part in this debate to-day, but as the debate has

[Mr. Muhammad Yamin Khan.]

taken a particular turn, I have thought it my duty to explain my position so that I may not be misunderstood when I give my vote. I do not agree with my Honourable friend, who has just now spoken about the Civilian Judges, that they are really so bad as he seems to think. My vote when it is cast in favour of the Resolution will not be on that account, nor on those other grounds on which the Honourable Member who has just finished his speech has based his reasoning. I have found many Civilian Judges to be very efficient and on many occasions much better Judges than those who have been recruited from the Bar. Munsifs and sub-judges are recruited from amongst the vakils and there are District and Sessions Judges who come from the Civil Service. I have appeared in the courts of both, and I can safely say that so far as judgments go, there can be no comparison. On questions of knowledge of law, one may be superior to the other, but the qualification for a Judge is not simply that he should know all the rulings by heart. He must have shrewdness and intelligence to come to right conclusions, an unbiassed and open mind and things like that. I have never found the majority of Civilian Judges, as alleged, lacking in these qualities. There have been some Civilian Judges who have not been efficient Judges. At the same time you will also find many munsifs and sub-judges who were lacking in these qualities. My learned friend will say that the munsifships were applied for by people who were failures in their own profession and that is the reason why you cannot compare the two classes. Now, circumstances have changed. There are better prospects for a man who enters as a munsif. He can go up to the Bench of a High Court. Now if you read the rulings of the different High Courts you will be convinced that the rulings of Civilian Judges are so good as to elicit the admiration of any lawyer. As a matter of fact, the whole thing depends upon the intelligence of the man himself. I have sometimes found a Joint Magistrate so efficient a Judge that if I had the power I would place him on the High Court Bench. On the other hand I have found a Commissioner with about 30 years service who delivered a judgment one day and after three days changed the whole thing. There have been individual cases like that. So I do not agree with the sweeping remarks of my learned friend Mr. Amar Nath Dutt that Civilian Judges are all bad. While giving my vote to this Resolution, I do not wish to associate myself with the arguments that he brought forward, and that is why I want to make my position clear. My reason is that the Chief Justiceships of the High Courts are really and primarily meant for the men who have been trained in the profession as barristers. That has been the practice in England and nobody can say that the English High Court Judge has ever been wanting in his judicial capacity because those Judges are recruited from amongst men who were very efficient as lawyers and who have distinguished themselves in their profession. The independence of the High Court Judges in England comes out of the fact that they knew the ins and outs of how the cases are really worked up. When they appear in the courts they come to know the whole thing inside out and that is why they act independently. The Civilian has not got this benefit. He never appears on behalf of a client and he is never in charge of the preparation of a case. From the beginning he is accustomed to decide cases and he has not had the training which a man in the profession has to go through. That is the chief criterion and this innovation which has been brought about has deprived the legal profession of its privileges enjoyed for a very long time. For a long time the barristers should have

been recruited in larger numbers. The Public Services Commission, of which the leader of the Independent Party was a member, made a recommendation that most of the District Judges should be recruited from amongst the barristers. That recommendation has been altogether ignored by the Government. There is a great deal of feeling amongst the members of the Bar that these posts are chiefly monopolised by the Civil Service and the Bar are deprived of their due share. It is the Civil Service that makes the rules and they make rules in order to suit themselves. They do not give a proper share of the posts to the members of the profession. This recommendation, although nominally accepted, has not been given effect to simply because the voice of the Bar could not reach the inner circles of the body which really had to do with their rights and privileges. There was only one privilege which had been up to now enjoyed by the members of the Bar, and that is that the Chief Justices should be recruited from amongst the members of the Bar. It may be felt that there is an injustice to the Civilians that they cannot become High Court Judges, but in spite of it this privilege should not be taken away from the Bar which had enjoyed it for the last 150 years. Their privileges should be enlarged rather than curtailed, and this has been the fight that has been going on. On this ground I would not give away the privileges which had been enjoyed by my profession, just as my Honourable and learned friend the Home Member would like to safeguard the interests of the service to which he belongs. With these few words I support the Resolution which has been moved.

Sirdar Harbans Singh Brar (East Punjab: Sikh): Sir, I should like to join in supporting the Resolution moved by my Leader on one or two grounds. I personally consider that it is of national importance in a country ruled by a bureaucratic system of government that the people should feel that at least they can expect justice from the highest tribunal in the land. It is not a question whether the Judge who sits on the Bench will give an impartial judgment or will treat fairly every case that comes before him, but what is of importance is that the parties to the case should feel safe in their minds; and it has been on these grounds that in England the people have become so law-abiding. The judiciary has nothing to do with the executive; it is completely independent of it from beginning to end. The people feel that the judiciary, being recruited from the Bar, has nothing to do with the executive and can take a detached view of everything that comes before it. It is that which has made the English judiciary so praiseworthy. We see the difference between the magistracy and the judiciary in India. The judiciary—the subordinate judiciary I mean—being under the High Court which is administered not by an executive officer but by a person recruited from the Bar either in England or in India, takes a much more detached view in their daily administration than we find in the case of the magistracy. Recently we had a case reported in the Press from the United Provinces which had been decided by a District Magistrate. The case went on appeal to the High Court, the decision was upset, and when the file was sent back to the District Magistrate, he wrote strong remarks against the High Court Judge on that file which I do not want to repeat because the person concerned afterwards tendered an apology for fear that the High Court might take some action. We have seen such examples of Magistrates being actuated by political considerations in other provinces as well because they belong to the executive service and are only responsible to the head of the executive. Thus, from the very nature

[Sirdar Harbans Singh Brar.]

of their training in the service, they find it difficult to administer impartial justice, not deliberately, but such a mentality is developed in them as to preclude them from taking an impartial view of a case; much less in a political case. At any rate even when they do take an impartial view, the accused however do not feel safe in their hands, knowing that they being members of the steel-frame service so much admired by Mr. Lloyd George some years ago, in his Oxford speech, a service which after all only keeps the people in chains, cannot forget that they being under the executive, their duty is to administer what the Government wishes them to, to keep law and order in some rough sense; but when they join the judiciary, we find a very noble change, because then they feel that now they are more responsible to the head of the judiciary who has nothing to do with the executive service and that they take in their judgments only the view that they should take as judicial officers and nothing else. I think therefore that it is of the utmost importance that the people should enjoy that right of feeling within themselves that they shall get impartial justice from the highest tribunal in the land. Well, the I. C. S. may feel that now that the provinces are going to get autonomy and there is going to be responsibility at the centre, there are not many high places left for them for promotion, as the Executive Councillorships will cease to be held by them either here or in the provinces. And thus they want to open the door for themselves to the high places of promotion, even more coveted than Executive Councillorships, that of Chief Justices. Nevertheless I contend that everyone will agree that the man in the street should feel and the judiciary itself should feel that it enjoys the confidence of the people at large, and the people who are parties to their cases should feel that they will have justice from the courts of law. From that point of view I would strongly recommend to my fellow-Members in this House not merely that the profession of barristers or lawyers should benefit by it but that from the general and broader view-point the public at large should be enabled to have confidence, in the judiciary, and therefore the present practice should remain whereby a Chief Justice is recruited from the Bar and not from the I. C. S.

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): Sir, I take it that the I. C. S. man is sought to be excluded from the Chief Justiceship merely and solely because he is an I. C. S. man. I mean that even if an I. C. S. man qualifies himself as a barrister, he is to be excluded from a Chief Justiceship because, in addition to his degree of a barrister, he commits the high misdemeanour of having obtained qualifications as an I. C. S. man. I say, Sir, that is a patently unsound position, and it is sought to be supported by several arguments of prejudice and not one of merit. It is said that an I. C. S. man labours under a certain unconscious bias which he derives from the traditions of his service. So far as I could follow my Honourable friends on the other side, not a single specific instance was cited of an I. C. S. Judge having displayed this unconscious bias, and I think such an instance could not possibly be adduced. So far as I have experience of the Bombay High Court, I can say that the names of Mr. Justice Fawcett, Mr. Justice Beaman and Mr. Justice Batty are names which command universal respect and regard at the Bar; and I have still to learn, Sir, that the justice which a Puisne Judge administers is something different from the justice which a Chief Justice has to administer. No doubt, in addition to qualifications as a Judge, a Chief Justice should have some administrative capacity as head of the administrative department of the High Court, and I think in this direction an I. C. S. man certainly, to put it colloquially, scores a little over a mere lawyer who has had no administrative experience. Then, it is said that the I. C. S. men should be debarred from the Chief Justiceship because many public meetings of lawyers and others have said so. To that my answer is that all these public meetings have passed simply *ex parte* judgments, and it is strange that lawyers who are trying to support this motion should have tried to give weight to judgments which, they know, labour under the statutory disqualification of being liable to be vacated when the real facts are known. Lastly, it has been said that the I. C. S. men should not be appointed Chief Justices because certain newspapers including the *Statesman* have said so. Well, Sir, at the Simla Session last year my Honourable friends on the other side of the House, who have now cited newspapers as their authority, were prepared to indict the *Statesman* for having written something which they called "nonsense" about Kashmir. That is my answer to that argument. Sir, so far I have been able to follow my Honourable friends on the other side, these are all the arguments that have been adduced by them in support of the proposition that the I. C. S. man as an I. C. S. man should be disqualified from the Chief Justiceship. That being the case, I think the fate of this Resolution should not be in any doubt.

Mr. B. R. Puri (West Punjab: Non-Muhammadan): Sir, when I first read section 101 of the Government of India Act I was at a loss to understand what good reason there could possibly exist for excluding the I. C. S. men from the Chief Justiceship. On the face of it, it seemed as if there could not have been any good or solid reason justifying their exclusion. If a person, be he an I. C. S. or an outsider, is good enough to be a Judge of the High Court, *a fortiori* I do not see how he is debarred from occupying the office of a Chief Justice. That was the first thought that occurred to me. At the same time, I had a perfect faith in the wisdom of the British Parliament and I was fully convinced that there must be some very solid reason why the Parliament as far back as 1861 had deliberately laid down a provision in which they expressly excluded a certain class of public servants from occupying the office of the Chief Justice. Although, as I have submitted, on the face of it there does not appear any good reason behind it, yet having regard to the fact that it was enacted by an eminent Legislature which has stood the test of the time for very nearly a century, I thought that this exclusion must be based on some good reason. Now, the issue before the House is being fought, I regret to say, on somewhat wrong lines. I have been carefully listening to the very eloquent speech from the Honourable the Home Member. But I am afraid he got into a side-track. He tried to justify the eligibility of the Civilians on their merits. Now, who ever has denied that Civilians have contributed some very good examples of judicial ability, sense of impartiality and sense of honesty? We have had on the High Court Bench some remarkably clever and able Civilians. But that is not the point before us. I am willing to admit that from amongst the Bar, while, on the one hand, we claim that we have contributed illustrious lawyers, there may have been at the same time a few failures too and, equally, there may have been some failures in the category of the I. C. S. people. But that is neither here nor

[Mr. B. R. Puri.]

there. We do not say that Civilians should be excluded because they are incompetent; we do not say that they are not honest; we do not say that they should not be given this high office because they do not possess the same sense of responsibility as the lawyers do. That would be an entirely wrong line on which to argue one's case. We say that, while you are fully competent to occupy that position, as a *matter of policy* in the High Courts there should be at least one office, that is the Chief Justiceship, which should not be associated at all with any administrative or executive department. That, I submit, is the real point upon which this issue ought to be fought. We have been arguing the case as if lawyers are superior. Some lawyers are superior to some Civilians and some Civilians are no doubt superior to some lawyers. Man for man one is as good as the other, or, to put it conversely, one is as bad as the other. But these are not the considerations upon which, as I have submitted, the decision of this issue hangs. The only point upon which we should proceed to consider the case is whether as a matter of policy and in order to inspire the confidence of the people you should not say that, while in the judicial subordinate service the Civilians or other people connected with the executive Government are employed to perform judicial duties, yet so far as the administration of justice is concerned it is placed under the control of a person who is dissociated with Government and who has had absolutely nothing to do with the administrative or executive sides of it. Having regard to this consideration, I think we should accept the Resolution.

An Honourable Member: I move that the question be now put.

Mr. President: I accept the closure. The question is:

"That the question be now put."

The motion was adopted.

Sir Hari Singh Gour: Sir, I do not wish to take many minutes in my reply. I am afraid that as this debate has proceeded, the question seems to have developed into one of the superiority of the Civil Service *versus* the Bar. If Honourable Members will recollect my speech, they will remember that I have not said one syllable against the Indian Civil Service or in favour of the Bar. All that I have said is that the law which is the Parliamentary Act of 1861 and which has been re-enacted from time to time and which is the law of the land today, restricts the appointment of the Chief Justice of the High Court to a barrister or an advocate. Therefore, those who want to change this law have a heavy burden to discharge in showing why this hoary piece of legislation, which has been in practice for over a century, should now be altered. That is the question. The Honourable the Home Member has twitted me for having advocated the retention of a privilege of the Bar. Those who have read the Agenda Paper will find that I am only a vicarious spokesman of the Member in whose name this Resolution stands. And the fact that I have taken this task upon myself is due entirely to the accident that I am occupying this position to which you have elected me.

Sir Lancelot Graham (Secretary, Legislative Department): Who is "You"?

Sir Hari Singh Gour: My friends on the Opposition Benches.

Sir Lancelot Graham: Address the Chair.

Sir Hari Singh Gour: Apart from that accident, as the Honourable the Home Member has introduced a somewhat fallacious argument calling the Bar a close corporation, I feel tempted to retort by reading to the House a description of his own service given by the President of the Public Services Commission in India. At page 196, the Indian Statutory Commission precis of evidence describes the Indian Civil Service thus:

"By virtue of its position it obtained powers, privileges and emoluments which appertained to no other body in India. Like all other powerful bodies, it developed a strong corporate sense and corporate traditions. As a select body it jealously guarded admission to its ranks by methods other than those by which the main body was recruited. Amidst infinite individual diversities it developed a type which is as recognisable in India as certain well marked types are recognisable in England. Those who were most envious or critical of its special position were unable to deny the basis of superiority on which that position was founded."

If that is not a description of a close corporation and a caste, I pause to consider what else could be a close corporation. As for the Bar being a close corporation, the Bar has justified its existence as a tribunal of the people and has administered even handed justice ever since the days when it was called into existence. I am not giving you this as an expression of my opinion. No less a man than Viscount Bryce, who toured all over the British Empire and who wrote these two volumes on the "Modern Democracies", justifies judicial appointments given to the Bar in the following words. At page 425 of volume 2 he says:

"A review of the judicial branch of Government in the countries already examined suggests, except as regards some States of the American Union, nothing to discredit democratic government, for it has provided justice, civil and criminal, at least as good as did any of the European monarchies or oligarchies, and better than did most of them. In Canada and Australia public opinion has been vigilant. Barristers promoted from politics to the Bench have, when, once they take their seat there, breathed an atmosphere so saturated with the English traditions, now two centuries old, of judicial impartiality and independence that they have very seldom yielded to partisan sympathies or party pressure. It has also been a benefit that in these countries they have been invariably selected from the Bar, with their former associates in which they maintain social relations, undisturbed by political differences, and to whose good opinion they are sensitive. Nor has the Bar been without its influence on the Government of the day in deterring it from appointing, in satisfaction of party claims, persons whose capacity or character fell below the accepted standard."

Sir, this is a signal tribute to the impartiality, to the fair-mindedness and independence of the Members of the English Bar, and, I say that when you have not only in England but in all the far-flung Dominions of the British Commonwealth the judiciary entirely drawn from the Bar, it is not merely an accident but it is the result of experience gained for the last two hundred years, that has been crystallised in section 101 of the Government of India Act. We have been told that the Members of the Bar are anxious to preserve these high offices for Members of their own professions. Those who live in glass houses must be careful not to throw stones at others, for have we not Schedule III of the Government of India Act, which runs thus: "Offices reserved for the Indian Civil Service".

4 P.M.

The Honourable Sir James Crerar: It is by an Act of Parliament, not by executive orders.

Sir Hari Singh Gour: Be that an Act of Parliament, I am claiming the same right for the Members of the Bar. I wish there was another schedule appended to the Government of India Act: "Offices reserved for the Members of the Indian Bar.". Then there would have been some equality and a comparison between the members of my Honourable friend's distinguished service and the humble members of my profession, who have to struggle in this country without any reservation and without any privileges, would have been justified. Sir, I have held, and I feel that so far as the members of my profession are concerned they have justified their appointment before the bar of public opinion not only in this country but in England and over all the British Dominions and that tradition of the English Bar has radiated throughout the length and breadth of this civilised globe. It is that tradition that I wish to perpetuate in my own motherland. I am also jealous of the privileges of the members of that profession not because I for one moment under-rate the importance and the value of the corporate character of the members of the Indian Civil Service, but because I feel that these four or five appointments that are to be practically reserved to the members of the legal profession tend to keep up that high degree of integrity and independence which is so necessary in the interests of the litigant of this country. If you are to take away this allurement from the legal profession, the standard of the profession is likely to go down. In the same manner if you are to take away all reservation from the members of the Indian Civil Service, there will be speedy passages at home and half the members will disappear from this country, it is for that reason I ask you to support this motion. We have been told by some of the Honourable Members that the expression "including" is an ambiguous expression which finds a place in section 101 of the Government of India Act. I am a student of Indian Law and I find before me the first Regulating Act of 1773, in clause 13 of which the following occurs:

> "That it shall be lawful for His Majesty by Charter or Letters Patent under the Great Seal of Great Britain to enact and establish a supreme court of judicature at Fort William aforesaid to consist of a Chief Justice and three other Judges being Barristers in England or Ireland."

Sir, when you laid the foundation of British rule in this country you did it upon the pillars of English Barristers and not upon the Civil Service. The Supreme Court, that great tribunal of the people, that palladium of the people's justice, was entirely manned by the English Bar, and it was an encroachment upon that privilege of the English Bar when the Indian Civil Service in 1861 took away some of the appointments which before that Regulating Act were reserved for members of the English Bar. And when the Chief Justice of Bengal was speaking of section 101 of the Government of India Act—my friend has got his evidence before him—what he said is what I have just now quoted that he wanted that this reservation for the Indian Civil Service should be removed from the Statute-book. And if you remove this reservation of one-third of the members of the Indian Civil Service from the Statute-book, then you will not have any reservations in the High Court for that service and necessarily no reservation for the office of Chief Justice. But that apart, I based my claim upon the undoubted fact that in the wisdom of Parliament these appointments have been reserved to the members of the English Bar, and when I am in favour of the enlargement of the provisions of that section, I am not breaking in upon that principle but contend that a member of the legal profession may just as well be a barrister or an advocate or a vakil. They belong to the same class; but when my friend on the other side wishes to enlarge the terms of section 101, he breaks in upon the radical principle of that section by introducing the provision that non-lawyer and non-professional Judges shall be treated on the same footing as professional Judges. Sir, it is one thing to be conversant with the theory of law and quite a different thing to be conversant with the practice of law. And whatever may be said of the ability and competence of the members of the Indian Civil Service, they cannot lay any claim to the practice of Indian law; and if you allow the practice of Indian law as a vital qualification for the discharge of judicial functions, then I say the members of the Indian Civil Service are out of court. But that is not the question. We are not dealing here with the larger question which underlies the enactment of section 101 of the Government of India Act. I ask the House to support a very narrow motion, the motion being that the present provisions of the Government of India Act, which have been in existence for over a century, shall continue to remain in the future constitution of this country. Could anything be more just? Could anything be more equitable? Has my friend said anything against it? He has not. I leave it at that.

The Honourable Sir James Crerar: Sir, with your permission I should like to say a very few brief words in reply.

Mr. President: Very well.

The Honourable Sir James Crerar: Sir, after the elaborate explanation of my Honourable and learned friend that it was by sheer accident that he came to move his Resolution, it was perhaps somewhat misconceived and even ungracious on my part to have been at so much pains to follow the elusive anfractuosities of his argument. I perhaps ought to have contented myself with assuring him of my deepest and most respectful sympathy in the accident in which he finds himself so uncomfortably involved. But I think that a somewhat worse accident has overtaken the debate in consequence of what has just now fallen from my Honourable friend, because, if the House has listened attentively to his final words, it must be afflicted with an extraordinary sense of the whole of this debate being a great misunderstanding. I am almost led to the desperate theory that the Honourable and learned gentleman did not read through the terms of the Resolution which he moved. He has made in the most eloquent terms the following plea, that the present provisions of the Government of India Act regulating the constitution of the High Courts of India, having produced in the past High Courts which have commanded the respect of the whole country not only for their learning, not only for their legal acumen and subtlety but also for their independence of the executive authority, that for these and many other cogent and weighty reasons, that law should remain unaltered. Has it escaped his attention that the Resolution which he asks this House to endorse does propose a very material and a very substantial change in the law? Had the argument been that the law should remain unaltered, I would have myself freely admitted that there was very much to be said for it. That is not the Honourable gentleman's proposition. The Honourable gentleman's proposition is not that the law should remain unaltered but that it should be altered, and it is in respect of one part of the alteration which the Resolution proposes that I took objection. The Government of India have long been prepared to recognise

[Sir James Crerar.]

the claim which has been so eloquently supported on the other side of the House that members of the Indian Bar as distinct from those who have also qualified as members of the Bars of Great Britain should be regarded as eligible for the post of Chief Justice. It surprises me that it should now be imputed to me that I am opposing that proposition. I have maintained all along, and I made it clear in the first sentence of my speech, that in that proposition the Government of India fully concur and have long urged the admission of that upon His Majesty's Government, and that His Majesty's Government agreed to it. What I did object to was that an invidious and unwarranted discrimination should be made among those who, and by the common consent of that great body of the public in India who are most concerned with the proper administration of the law, have earned their position and have justified their position.

Truly, Sir, there is one point on which I should like to express my satisfaction. During the whole course of this debate I acknowledge that nothing has been said in disparagement of the honesty, the integrity and the ability of the Indian Civil Service; and I hope that I was equally clear in my expressed desire at the outset to embark upon no disparagement of the Bar. Indeed I endeavoured in my humble way to pay my tribute to the Bar. And therefore it is somewhat unfortunate, it has certainly not been in any way my intention, nor, I think, my fault, that the debate has to some extent developed on the lines of some kind of competition between the Bar and the Indian Civil Service. That is really entirely remote from our purposes; it is really entirely remote, I should imagine, from the intentions of those who hold the views intended to be expressed in this Resolution. The true fact of the matter, the real issue is that which my Honourable and learned friend from the Punjab, Mr. Puri, has stated in a very lucid and very temperate manner. He said it was not a contest as between the ability, the integrity, the experience and the knowledge of law of two different classes of men. It was really a question of public policy. It was a question of whether one particular method of appointment or another would be best calculated to secure that the presiding officers of the High Courts in India should be removed from the faintest suggestion of partiality, bias or subservience. I am perfectly prepared to appeal to that principle. I am perfectly prepared to accept the Honourable Member's perfectly correct statement of what is really involved in this. And I say that judged by precisely that criterion of eligibility to the great office of Chief Justice on the grounds of ability, of knowledge of law, of experience of personal integrity, of the most complete independence of spirit and of the most complete determination to maintain the standard of justice free from any invasion or deflection by any improper influence whether executive or political, the category of Judges whom this Resolution proposes specifically, unwarrantably and invidiously to exclude are entitled precisely to the same acceptance, the same degree of confidence and the same protection, as any other category, of the Puisne Judges of the High Courts.

Mr. President: The question which I have now to put is that:

"This Assembly recommends to the Governor General in Council to convey to His Majesty's Government that in the opinion of this House the Chief Justice of an Indian High Court shall be a Barrister, a Vakil, or an Advocate, and not a Member of the Indian Civil Service."

The Assembly divided.

AYES—46.

Abdul Matin Chaudhury, Mr.
Aggarwal, Mr. Jagan Nath.
Ahmed, Mr. K.
Anwar-ul-Azim, Mr. Muhammad.
Azhar Ali, Mr. Muhammad
Bagla, Lala Rameshwar Prasad.
Bhuput Sing, Mr.
Das, Mr. A.
Das, Mr. B.
Dudhoria, Mr. Nabakumar Sing.
Dutt, Mr. Amar Nath.
Fazal Haq Piracha, Shaikh.
Ghuznavi, Mr. A. H.
Gour, Sir Hari Singh.
Harbans Singh Brar, Sirdar.
Ismail Ali Khan, Kunwar Hajee.
Jog, Mr. S. G.
Lahiri Chaudhury, Mr. D. K.
Lalchand Navalrai, Mr.
Maswood Ahmad, Mr. M.
Misra, Mr. B. N.
Mitra, Mr. S. C.
Muazzam Sahib Bahadur, Mr. Muhammad.
Mudaliar, Diwan Bahadur A. Ramaswami.
Mujumdar, Sardar G. N.
Murtuza Saheb Bahadur, Maulvi Sayyid.
Neogy, Mr. K. C.
Pandit, Rao Bahadur S. R.
Parma Nand, Bhai.
Puri, Mr. B. R.
Raghubir Singh, Kunwar.
Rastogi, Mr. Badri Lal.
Reddi, Mr. T. N. Ramakrishna.
Sant Singh, Sardar.
Sarda, Diwan Bahadur Harbilas.
Sen, Pandit Satyendra Nath.
Shafee Daoodi, Maulvi Muhammad.
Shah Nawaz, Mian Muhammad.
Singh, Kumar Gupteshwar Prasad.
Singh, Mr. Gaya Prasad.
Sitaramaraju, Mr. B.
Suhrawardy, Sir Abdullah.
Uppi Saheb Bahadur, Mr.
Wilayatullah, Khan Bahadur H. M.
Yamin Khan, Mr. Muhammad.
Ziauddin Ahmad, Dr.

NOES—40.

Abdul Qaiyum, Nawab Sir Sahibzada.
Acott, Mr. A. S. V.
Allah Baksh Khan Tiwana, Khan Bahadur Malik.
Allison, Mr. F. W.
Anklesaria, Mr. N. N.
Azizuddin Ahmad Bilgrami, Qazi.
Bajpai, Mr. R. S.
Banerji, Mr. Rajnarayan.
Bhore, The Honourable Sir Joseph.
Clow, Mr. A. G.
Cosgrave, Mr. W. A.
Crerar, The Honourable Sir James.
Dalal, Dr. R. D.
Fox, Mr. H. B.
French, Mr. J. C.
Graham, Sir Lancelot.
Gwynne, Mr. C. W.
Heathcote, Mr. L. V.
Lal Chand, Hony. Captain Rao Bahadur Chaudhri.
Macqueen, Mr. P.
Moore, Mr. Arthur.
Morgan, Mr. G.
Mukherjee, Rai Bahadur S. C.
Noyce, Sir Frank.
Parsons, Sir Alan.
Rainy, The Honourable Sir George.
Rajah, Rao Bahadur M. C.
Rama Rao, Diwan Bahadur U.
Roy, Mr. S. N.
Ryan, Mr. T.
Sahi, Mr. Ram Prashad Narayan.
Santos, Mr. J.
Schuster, The Honourable Sir George.
Scott, Mr. J. Ramsay.
Seamen, Mr. C. K.
Sher Muhammad Khan Gakhar Captain.
Studd, Mr. E.
Sykes, Mr. E. F.
Young, Mr. G. M.
Zulfiqar Ali Khan, Sir.

The motion was adopted.

Mr. President: I should like to ask Honourable Members whether they desire that I should call upon the mover of the next Resolution to place his Resolution before the House at this hour (*Cries of* "No, no.")—order, order,—or whether they wish me to adjourn the House now till to-morrow. (*Cries of* "Adjourn.") I take it that the House wishes to adjourn now. The House stands adjourned till 11 o'clock tomorrow morning.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 28th January, 1932.

LEGISLATIVE ASSEMBLY.

Thursday, 28th January, 1932.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President in the Chair.

STATEMENTS LAID ON THE TABLE.

Election Expenses of Candidates for Election to the Legislative Assembly.

Sir Lancelot Graham (Secretary, Legislative Department): Sir: I place on the table the statement promised in reply to part (*b*) of unstarred question No. 5 asked by Kunwar Hajee Ismail Ali Khan on the 26th January, 1931, regarding election expenses of candidates for election to the Legislative Assembly at the last general election.

Statement showing names, constituencies and amounts of election expenses of candidates for election to the Legislative Assembly at the last general election.

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Diwan Bahadur A. Ramaswami Mudaliar (Elected).	Madras City (Non-Muhammadan Urban).	799 14 0
Mr. M. Pampathi Nayadu . .	Ditto . . .	4,928 7 0
Mr. Bhupati Raju Sitarama Raju (Elected).	Ganjam *cum* Vizagapatam (Non-Muhammadan Rural).	1,490 0 0
Rao Bahadur Ati Narayana Pantulu Garu.	Ditto . .	1,804 6 0
Mr. Mothay Narasimha Rao (Elected).	East Godavari and West Godavari *cum* Kistna (Non-Muhammadan Rural).	827 3 6
Mr. Gogineni Ranganayakulu .	Ditto . .	25 0 0
Mr. Ponaka Govindu Reddi (Elected).	Guntur *cum* Nellore (Non-Muhammadan Rural).	1,669 7 6

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Mr. Pamulapati Venkata Krishniah	Guntur *cum* Nellore (Non-Muhammadan Rural).	1,111 10 0
Mr. Nallapureddigari Ramakrishna Reddi (Elected).	Madras ceded districts and Chittoor (Non-Muhammadan Rural).	125 7 6
Mr. Ramasamy Chetty Kandasamy Shanmukhham Chetty (Elected).	Salem and Coimbatore *cum* North Arcot (Non-Muhammadan Rural).	32 8 0
Dewan Bahadur Thiruvenkata Rangachariar, C.I.E. (Elected).	South Arcot *cum* Chingleput (Non-Muhammadan Rural).	7,809 14 9
Mr. M. K. Acharya . . .	Ditto . .	301 7 6
Mr. M. G. Parthasarathi Mudaliar .	Ditto . .	2,176 10 6
Raja Bahadur G. Krishnamachariar (Elected).	Tanjore *cum* Trichinopoly (Non-Muhammadan Rural).	1,377 4 0
Rao Sahib C. R. Lakshmivaraha Ayyangar.	Ditto . .	50 4 0
Rao Bahadur Ramanathan Chettiar	Ditto . .	*Nil.*
Mr. M. Ramaswami Ayyar . .	Ditto . .	22 13 0
Mr. N. Natesa Ayyar . .	Ditto . .	10 0 0
Mr. Bhaskara Rajaram Pandy (Elected).	Madura and Ramnad *cum* Tinnevelly (Non-Muhammadan Rural).	1,720 8 2
Mr. A. Rangaswami Ayyar . .	Ditto . .	9 12 0
Mr. N. Natesa Ayyar . . .	Ditto . .	601 15 3
Mr. C. T. N. Narayana Chettiar .	Ditto . .	40 0 0
Mr. Kuthiravattath Prabhakaran Thampan (Elected).	West Coast and Nilgiris (Non-Muhammadan Rural).	44 5 0
Mr. Upendra Pai . . .	Ditto . . .	606 4 0
Mr. Mahomed Muazzam Sahib Bahadur (Elected).	North Madras (Muhammadan) .	1,289 8 0
Abdul Latif Sahib Bahadur Farooki.	Ditto . .	1,286 5 3
Maulvi Sayyid Murtuza Sahib Bahadur (Elected).	South Madras (Muhammadan) .	21 4 0
Mr. Uppi Saheb Bahadur (Elected).	West Coast and Nilgiris (Muhammadan).	524 10 0

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Mr. William Alexander (Elected) .	Madras (European) . . .	*Nil.*
Raja Sir Vasudeva Raja, Kt., C.I.E. (Elected).	Madras Landholders . .	2,991 5 10
Mr. T. V. N. Chakravarti Pantulu .	Ditto . .	2,643 14 3
Mr. M. Jamal Mahomed Saheb (Elected).	Madras Indian Commerce . .	7 9 6
Mr. Naoroji Manekji Dumasia (Elected).	Bombay City (Non-Muhammadan Urban).	891 7 0
Sir Cowasji Jehangir (Junior), K.C.I.E., O.B.E. (Elected).	Ditto . .	425 5 0
Mr. Sahibsing Chandasing Shahani (Elected).	Sind (Non-Muhammadan Rural) .	492 10 9
K. B. A. Hormusji Mama . .	Ditto . .	*Nil.*
Mr. V. B. Patel . . .	Ditto . .	*Nil.*
Mr. M. Misquitta . . .	Ditto . .	671 4 0
Mr. Nassarwanji Navroji Anklesaria (Elected).	Bombay Northern Division (Non-Muhammadan Rural).	698 9 0
Diwan Bahadur T. Kapilram, C.I.E.	Ditto . .	1,102 9 3
Mr. Himatlal Maneklal . .	Ditto . .	(Incurred disqualifications.)
Mr. M. Jorabhai . . .	Ditto .	512 12 0
Sir Ibrahim Rahimtulla, K.C.S.I., C.I.E. (Elected).	Bombay Southern Division (Muhammadan Rural).	626 10 0
Mr. M. H. Kazi	Ditto . .	*Nil.*
Mr. M. S. Mitha	Ditto . .	405 5 0
Mr. J. S. Kadri . . .	Ditto . .	98 0 0
Mr. F. I. Rahimtoola . . .	Ditto . .	6,639 8 0
Mr. Bhaskarrao Vithojirao Jadhav (Elected).	Bombay Central Division (Non-Muhammadan Rural).	1,498 4 6
Mr. Narayan Ramji Gunjal (Elected).	Ditto . . .	1,566 6 6
Rao Bahadur R. R. Kale . .	Ditto . . .	10 8 0
Mr. S. N. Haji	Ditto .	3,090 9 0

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Rao Bahadur B. L. Patil (Elected).	Bombay Southern Division (Non-Muhammadan Rural).	*Nil.*
Mr. Mahomed Ali Jinnah (Elected).	Bombay City (Muhammadan Urban).	3 6 0
Seth Haji Abdullah Haroon (Elected).	Sind (Muhammadan Rural) .	1,355 13 0
Nawab Naharsingji Ishwarsingji (Elected).	Bombay Northern Division (Muhammadan Rural).	7,217 7 3
K. S. Mohd. Ibrahim Makan .	Ditto . .	959 5 6
Mr. Edward Francis Sykes (Elected)	Bombay (European) . . .	*Nil.*
Sir Hugh Golding Cocke, Kt. (Elected).	Ditto . .	*Nil.*
(Constituency failed to elect) .	The Indian Merchants' Chamber and Bureau (Indian Commerce).	..
Sardar Gangadharrao Narrayanrao Mujumdar. . .	Gujarat and Deccan Sardars and Inamdars (Landholders).	157 3 0
Sardar V. N. Mutalik . . .	Ditto . .	49 10 0
Mr. Hormasji Phirozshah Mody (Elected). . .	The Bombay Millowners' Association (Indian Commerce).	*Nil.*
Mr. Charu Chandra Biswas (Elected).	Calcutta (Non-Muhammadan Urban).	505 3 0
Mr. Naba Kumar Sing Dudhoria .	Ditto . .	579 7 0
Mr. Naba Kumar Sing Dudhoria (Elected).	Calcutta Suburbs (Non-Muhammadan Urban).	579 7 0
Mr. Amarnath Dutt (Elected) .	Burdwan Division (Non-Muhammadan Rural).	525 14 6
Mr. Satyendra Nath Sen (Elected)	Presidency Division (Non-Muhammadan Rural).	5 11 0
Mr. B. Sing Dugar . . .	Ditto . .	596 7 0
Mr. Naba Kumar Sing Dudhoria .	Ditto . .	681 7 6
Mr. H. C. Dutt	Ditto . .	502 3 0
Mr. Kshitish Chandra Neogy (Elected).	Dacca Division (Non-Muhammadan Rural).	559 8 0
Mr. Satyendra Chandra Mitra (Elected).	Chittagong and Rajshahi Divisions (Non-Muhammadan Rural).	30 5 0

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Sir Abdur Rahim, K.C.S.I., Kt. (Elected).	Calcutta and Suburbs (Muhammadan Urban).	518 0 0
Mohd. Rafique	Ditto . .	27 0 0
Dr. Abdullah-al-Ma'mun Suhrawardy (Elected). .	Burdwan and Presidency Divisions (Muhammadan Rural).	532 2 0
Sir Abdur Rahim, K.C.S.I., Kt. . .	Ditto . . .	515 14 0
K. B. Ekramul Huq . . .	Ditto . .	582 2 0
Mr. Abdul Halim Ghuznavi (Elected). .	Dacca *cum* Mymensingh (Muhammadan Rural).	781 6 3
Haji Chaudhury Mohammad Ismail Khan (Elected).	Bakarganj *cum* Faridpur (Muhammadan Rural).	533 1 6
Mr. Muhammad Anwar-ul-Azim (Elected).	Chittagong Division (Muhammadan Rural).	1,280 0
Mr. Iradutullah	Ditto . .	2,300 0 0
Mr. Kabeer-ud-Din Ahmed (Elected)	Rajshahi Division (Muhamamdan Rural).	69 7 6
Mr. William Arthur Moore (Elected)	Bengal (European) . . .	*Nil.*
Mr. Eric Studd (Elected) . .	Ditto	*Nil.*
Mr. George Morgan, C.I.E. (Elected)	Ditto	*Nil.*
Mr. Dhirendra Kanta Lahiri Chaudhury (Elected).	Bengal Landholders . .	319 2 9
Mr. Satish Chandra Sen (Elected) .	Bengal National Chamber of Commerce (Indian Commerce).	71 1 6
Mr. Jadu Nath Roy . . .	Ditto . .	263 0 0
Mr. K. C. Roy	Ditto . .	(Deceased).
Lala Rameshwar Prasad Bagla (Elected). .	Cities of the United Provinces (Non-Muhammadan Urban).	214 7 0
Mr. C. S. Ranga Iyer . . .	Ditto . .	120 0 0
Mr. Janki of Cawnpore .	Ditto . .	(Incurred disqualifications).
Mr. Jagannath Prasad, Benares .	Ditto . .	115 12 0 (Withdrew).
Chaudhri Isra (Elected) . .	Meerut Division (Non-Muhammadan Rural).	544 12 0

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Lala Janardhan Sarup	Meerut Division (Non-Muhammadan Rural).	625 5 3
Mr. N. B. Bhaya	Ditto	17 5 0 (Withdrew).
Mr. Udaya Bir Singh	Ditto	507 1 0 (Withdrew).
Ch. Ram Singh	Ditto	*Nil.* (Withdrew).
L. Budh Parkash	Ditto	*Nil.* (Withdrew).
Kunwar Raghubir Singh (Elected).	Agra Division (Non-Muhammadan Rural).	566 13 0
Mr. Amba Prasad	Ditto	504 5 0
Th. Udebir Singh	Ditto	514 2 0
Mr. Chirangivi Subramania Ranga Iyer (Elected).	Rohilkund and Kumaon Divisions (Non-Muhammadan Rural).	41 3 0
Babu Gopeshwar.	Ditto	1 8 0
B. Madan Gopal	Ditto	*Nil.*
Mr. A. Hoon (Elected)	Allahabad and Jhansi Divisions (Non-Muhammadan Rural).	1,734 14 6
Mr. Balpirdhari Lal	Ditto	500 14 3
Mr. Ayodhya Das (Elected)	Benares and Gorakhpur Divisions (Non-Muhammadan Rural).	754 12 3
Lala Brij Kishore (Elected)	Lucknow Division (Non-Muhammadan Rural).	680 0 6
Babu Kismat Rai Jagdehri	Ditto	701 4 9
Rai Bahadur Pt. Triloki Nath Bhargava.	Ditto	13 8 0
Rai Bahadur Pandit Triloki Nath Bhargava (Elected).	Fyzabad Division (Non-Muhammadan Rural).	6,353 1 9
Rai Sahib B. Motilal Manucha	Ditto	3,054 13 6
Babu Nand Lal Manucha	Ditto	500 0 0 (Withdrew).
Thakur Sri Madho Prasad Singh	Ditto	516 0 0 (Withdrew).
Rai Umanath Bali Sahib	Ditto	515 4 0 (Withdrew).
Lal Narindra Pratab Sahi	Ditto	761 2 0

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Khan Bahadur Haji Wajihuddin (Elected).	Cities of the United Provinces (Muhammadan Urban).	61 3 0
Mr. Sabibuddin	Ditto	43 0 0
Kunwar Hajee Ismail Ali Khan (Elected).	Meerut Division (Muhammadan Rural).	466 5 6
Syed Ghulam Allauddin Ahmed Khan.	Ditto	*Nil.* (Withdrew).
Mr. Muhammad Yamin Khan (Elected).	Agra Division (Muhammadan Rural).	575 10 3
Saiyid Athar	Ditto	500 0 0
Maulvi Muhammad Yakub (Elected).	Rohilkund and Kumaon Divisions, (Muhammadan Rural).	18 9 0
Dr. Zia uddin Ahmad, C.I.E. (Elected).	United Provinces Southern Divisions (Muhammadan Rural).	108 0 0
Mr. Muhammad Azhar Ali (Elected)	Lucknow and Fyzabad Divisions, (Muhammadan Rural).	2,912 13 9
Khawaja Khalil Ahmad Shah	Ditto	4,876 11 9
Mr. John Ramsay Scott (Elected)	United Provinces (European)	42 14 0
Lala Hari Raj Swarup (Elected)	United Provinces Landholders	1,112 8 9
Lala Tirloki Nath	Ditto	833 12 3
Rai Sahib Pandit Hari Das (Elected).	Ambala Division (Non-Muhammadan).	210 7 0
Rai Bahadur Lala Panna Lal	Ditto	101 2 0
Lala Jai Deb	Ditto	29 13 0
Lala Jagan Nath Aggarwal (Elected)	Jullundur Division (Non-Muhammadan).	4,486 9 0
Rai Sahib Lala Labha Ram	Ditto	*Nil.*
Lala Kanshi Ram Khosla	Ditto	3,118 12 0
Rai Bahadur Bakhshi Sohan Lal	Ditto	29 2 0
Pandit Chuni Lal	Ditto	0 1 0
Mr. Bhagat Ram Puri (Elected)	West Punjab (Non-Muhammadan).	583 15 0
Dr. Nand Lal, Bar.-at-Law	Ditto	206 1 0

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Lt. Nawab Muhammad Ibrahim Ali Khan (Elected).	East Punjab (Muhammadan) .	2,050 7 6
Mian Abdul Haye . . .	Ditto . .	829 1 0
Shaikh Sadiq Hasan (Elected) .	East Central Punjab (Muhammadan).	174 11 9
Sir Zulfiqar Ali Khan, K.C.S.I. .	Ditto . .	4 8 0
Ch. Fateh Muhammad . .	Ditto . .	4 0 0
Mian Mohammad Shah Nawaz, C.I.E. (Elected).	West Central Punjab (Muhammadan).	1,948 8 0
Khan Muhd. Khan . . .	Ditto . .	82 1 0
Major Nawab Malik Talib Mehdi Khan, O.B.E. (Elected).	North Punjab (Muhammadan) .	430 15 0
Ch. Bahwal Baksh . . .	Ditto . .	1,039 0 0
Raja Ghazanfar Ali Khan . .	Ditto . .	881 7 0
Shaikh Fazal Haq Piracha (Elected)	North-West Punjab (Muhammadan).	1,912 3 6
Mian Sultan Ali	Ditto . .	685 5 6
Ch. Faiz Ahmad . . .	Ditto . .	675 10 0
Khan Bahadur Makhdum Syed Rajan Bakhsh Shah (Elected).	South-West Punjab (Muhammadan).	227 0 6
Sardar Harbans Singh Brar (Elected).	East Punjab (Sikh) . . .	1,956 7 8
Sardar Kartar Singh . . .	Ditto . . .	1,820 5 9
Sardar Ishar Singh . . .	Ditto	1 14 0
Sardar Sant Singh (Elected) .	West Punjab (Sikh) . . .	2,659 9 0
Sardar Gulab Singh . . .	Ditto	5,066 4 0
Sardar Sohan Singh (Elected) .	Punjab Landholders . . .	1,401 5 6
Shahzada Mohd. Yusuf . .	Ditto	119 2 0
Pandit Ram Krishna Jha (Elected)	Darbhanga *cum* Saran (Non-Muhammadan).	389 0 0
Babu Adit Prasad Singh . .	Ditto . .	44 4 0
Babu Maheshwar Prasad Singh .	Ditto . . .	2 12 0 (Withdrew).

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Mr. Gaya Prasad Singh (Elected) .	Muzaffarpur *cum* Champaran (Non-Muhammadan).	2 0 0
Mr. Bishvanath Misra (Elected) .	Orissa Division (Non-Muhammadan).	3 0 0
Mr. Bhubanananda Das (Elected) .	Ditto . .	527 8 0
Babu Radha Ranjan Das . .	Ditto . .	12 0 3 (Withdrew).
Mr. Badri Lal Rastogi (Elected) .	Patna *cum* Shahabad (Non-Muhammadan).	44 5 0
Babu Ram Nandan Prasad Narayan Sinha.	Ditto . .	30 8 0
Raja Radhika Raman Prashad Sinha.	Ditto . .	2 0 0
Babu Ram Gopal Singh Chowdhury.	Ditto . .	*Nil.*
Kumar Gupteshwar Prasad Singh (Elected).	Gaya *cum* Monghyr (Non-Muhammadan).	24 0 0
Babu Ram Nandan Prashad Narayan Sinha.	Ditto . .	5 8 0
Babu Suraj Kumar Prashad Singh	Ditto . .	40 0 0
Rai Bahadur Sukhraj Rai (Elected)	Bhagalpur, Purnea and the Santhal Parganas (Non-Muhammadan).	*Nil.*
Babu Nehal Singh . . .	Ditto . .	*Nil.*
Raja Deoki Nandan Prashad Singh.	Ditto . .	(Incurred disqualifications.)
Thakur Mahendra Nath Shah Deo (Elected).	Chota Nagpur Division (Non-Muhammadan).	*Nil.*
Mr. S. K. Sahay	Ditto . .	*Nil.*
Syed Shah Muhammad Maswood Ahmad (Elected).	Patna and Chota Nagpur *cum* Orissa (Muhammadan).	2,829 13 6
Mr. Ali Hasan Khan . .	Ditto . .	1,038 10 0
Maulvi Badiuzzaman (Elected) .	Bhagalpur Division (Muhammadan).	599 11 0
Maulvi Muhammad Shafee Daoodi (Elected).	Tirhoot Division (Muhammadan) .	1,177 6 2
Maulvi Abdul Hamid Khan . .	Ditto . .	727 0 0

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Mr. Bhuput Sing (Elected) .	Bihar and Orissa Landholders .	3,096 8 3
Rai Bahadur Sukhraj Rai .	Ditto . .	133 6 0
Rao Bahadur Sadashiv Ramkrishna Pandit (Elected).	Nagpur Division (Non-Muhammadan).	500 8 0
Sir Hari Singh Gour, Kt. (Elected).	Central Provinces Hindi Divisions (Non-Muhammadan).	668 2 6
Seth Liladhar (Elected) . .	Ditto . .	*Nil.*
Khan Bahadur Hafiz Muhammad Wilayatullah, I.S.O. (Elected).	Central Provinces (Muhammadan)	1,234 0 0
Mr. A. H. Natique . . .	Ditto . .	129 3 9
Mr. Goswami Maheshpuri Guru Ram Kishnapuri (Elected).	Central Provinces Landholders .	*Nil.*
Srijut Tarun Ram Phookun (Elected).	Assam Valley (Non-Muhammadan)	1 5 0
Mr. Gopika Romon Roy (Elected) .	Surma Valley *cum* Shillong (Non-Muhammadan).	126 9 6
Rai Bahadur S. C. Datta . .	Ditto . .	24 11 0 (Withdrew).
Babu S. C. Das	Ditto . .	2 2 0 (Withdrew).
Maulvi Abdul Matin Chaudhury (Elected).	Assam (Muhammadan) . .	42 9 6
Mr. Thomas Andrew Chalmers, C.S.I. (Elected).	Assam (European) . . .	81 6 0
Mr. Jehangir Kaiphoshru Munshi (Elected).	Burma (Non-European) . .	1,993 4 0
U Kyaw Myint (Elected) . .	Ditto . . .	181 9 0
U Tun Aung (Elected) . . .	Ditto . . .	181 9 0
Mr. P. C. D. Chari . . .	Ditto . . .	577 0 0
U Kyaw	Ditto . . .	252 6 0
Maung Dwe	Ditto . . .	179 1 0
(Constituency failed to elect) .	Burma (European) . . .	..

Name of candidate.	Constituency.	Amount of election expenses lodged with the Returning Officer.
		Rs. a. p.
Bhagat Chandi Mal (Elected) .	Delhi (General)	706 14 0
Rai Sahib Lala Nanak Chand .	Ditto	472 4 9
Mr. Ismail	Ditto	Incurred disqualifications.
Rai Sahib M. Harbilas Sarda (Elected).	Ajmer-Merwara (General) . .	1,314 14 9
Sardar Bahadur Bhagwan Singh, Bar.-at-Law.	Ditto . . .	2,010 1 0
Mr. Magan Lal, Bar.-at-Law. .	Ditto . . .	732 15 9
Mr. S. G. Jog (Elected) . .	Berar Representative (Non-Muhammadan).	500 0 0

HORSE-BREEDING GRANTEES REPORTED AGAINST.

Mr. G. M. Young (Army Secretary): I lay on the table the information promised in reply to the supplementary questions to starred question No. 1271 asked by Sardar Sant Singh on the 12th November, 1931, regarding the number of grantees who have been reported against for keeping a mare incapable of bearing foals fit for the Army.

No grantee is reported for keeping a mare incapable of bearing foals fit for the Army.

When a mare becomes old and worn out or barren from veterinary reasons, she is branded out and the grantee is given three months' notice to produce another suitable mare. Failure of the grantee to comply with this condition necessitates a report to the civil authorities.

When a mare is starved and thus ruined by a grantee, a report is made to the Deputy Commissioner.

ELECTION OF A MEMBER TO THE COUNCIL OF THE INDIAN INSTITUTE OF SCIENCE, BANGALORE.

Sir Frank Noyce (Secretary, Department of Education, Health and Lands): Sir, I move:

"That this Assembly do proceed to elect, in such manner as may be approved by the Honourable the President, a member to represent this House on the Council of the Indian Institute of Science, Bangalore, for the period 1932—34 (both years inclusive) in pursuance of the provisions of clause 9, secondly, of the scheme for the administration and management of the properties and funds of the Institute, which was published in the Gazette of India, with the notification from the Department of Industries and Labour, No. 1—10 (T), dated the 12th February, 1926, *vice* Mr. R. K. Shanmukham Chetty, whose term of office has expired".

Sir, I move.

The motion was adopted.

Mr. President: I may inform Honourable Members that for the purpose of election of a Member to the Council of the Indian Institute of Science, Bangalore, the Assembly Office will be open to receive nomination up to 12 noon on Monday, the 1st February and that the election, if necessary, will be held in this Chamber on Wednesday, the 3rd February, 1932. The election will be conducted in accordance with the principle of proportional representation by means of the single transferable vote.

STATEMENT OF BUSINESS.

The Honourable Sir George Rainy (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 1st February. Honourable Members are aware that Monday, has been allotted for the discussion of a Resolution dealing with the present political situation, copies of which will be duly circulated to Members. On Wednesday, the 3rd February, motions will be made to take into consideration and pass two small Bills, namely, the Bill to amend the Indian Companies Act and the Bill to repeal the Employers and Workmen Disputes Act, 1860, leave to introduce which will be asked to-day. Leave will also be asked to introduce the following Bills:

(1) A Bill to amend the Indian Finance (Supplementary and Extending) Act, 1931. In order to allay any anxiety that Honourable Members may feel, perhaps I may say that it is not a Bill for imposing additional taxation.

(2) A Bill to provide for the administration and discipline of the Indian Air Force.

Thereafter the Honourable the Home Member will move to refer to Select Committee the Bill to supplement the Bengal Criminal Law Amendment Act, 1930, which was circulated by the order of the House in January, 1931. Honourable Members are already aware that Tuesday, the 2nd and Thursday, the 4th February are allotted for non-official business.

THE INDIAN COMPANIES (SUPPLEMENTARY AMENDMENT) BILL.

The Honourable Sir George Rainy (Member for Commerce and Railways): I move for leave to introduce a Bill to amend the Indian Companies (Amendment) Act, 1930, for a certain purpose.

The motion was adopted.

The Honourable Sir George Rainy: I introduce the Bill.

THE EMPLOYERS AND WORKMEN (DISPUTES) REPEALING BILL.

The Honourable Sir Joseph Bhore (Member for Industries and Labour): I move for leave to introduce a Bill to repeal the Employers and Workmen (Disputes) Act, 1860.

It is unnecessary for me, I think, to elaborate the Statement of Objects and Reasons. I need only say that our independent examination of this question has confirmed the view that the Act is obsolete and that it has not been used for many years. Sir, I move.

The motion was adopted.

The Honourable Sir Joseph Bhore: I introduce the Bill.

THE INDIAN INCOME-TAX (SECOND AMENDMENT) BILL.

Mr. President: The Assembly will now proceed with the further consideration of the following motion moved by the Honourable Sir George Schuster on the 9th September, 1931:

"That the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes, be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Sir Hari Singh Gour, Sir Cowasji Jehangir, Mr. S. C. Mitra, Mr. Muhammad Anwarul-Azim, Mr. L. V. Heathcote, Mr. N. N. Anklesaria, Sir Abdullah Suhrawardy and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Honourable Members are aware that the motion was discussed at considerable length in the September Session at Simla. This is the further consideration of that motion.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): I would like to have an assurance from the Honourable the Finance Member that all the objections that we raised against this Bill at the Simla Session will be considered by the Committee and that none of them will be ruled out for the reason of its being against the principle of the Bill.

Mr. President: Does the Honourable Member wish to reply?

The Honourable Sir George Schuster (Finance Member): Sir, I had expected some further discussion on this motion.

Mr. President: I gave the Honourable House ample time, but nobody got up to speak. I have no objection to allow any Honourable Member who wishes to address the House to do so with the consent of the Honourable Member in charge whom I have already called upon to reply.

Mr. Arthur Moore (Bengal: European): May I say, Sir, that Honourable Members were under the impression that Dr. Ziauddin Ahmad was raising some point of order. (Laughter.)

Mr. President: Does any Honourable Member wish to address the House?

Dr. Ziauddin Ahmad: I spoke on this motion at considerable length in Simla, and therefore it is unnecessary for me to speak again.

Mr. Arthur Moore: You cannot speak again. You raised a point of order.

May I say, Sir, that as Dr. Ziauddin Ahmad had spoken in Simla, we therefore imagined that he would be debarred from speaking now. We assumed that he was raising a point of order.

Mr. President: The subject-matter of the Bill is so important that I wish to make any concession within reason to allow the debate to proceed in spite of the fact that I have called the Honourable Member to reply. I will allow further discussion if any Honourable Member really desires to address the House.

Mr. E. Studd (Bengal: European): Sir, I am sorry that I should have been so slow and misunderstood what was happening. I am very grateful to you for giving me an opportunity of addressing the House on this Bill, which I agree is one of very great importance—one which has raised a great deal of controversy. Personally I had very grave misgivings about

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the Bill when it was first introduced last January. Most Honourable Members probably will remember that there was some suggestion then that the Bill should, if I may use the expression, be rushed through straightaway. But that the House was not prepared to accept and eventually the motion was carried for circulation. I felt fairly confident in my own mind that I knew beforehand what the opinions to be expressed on that Bill would be from certain quarters, at any rate on that circulation. But I confess I had no idea, when the Bill was circulated, that the opinions which would come back would be so strong and so unanimous in opposing the Bill. When it was debated last Simla Session, I listened with considerable eagerness to the Honourable the Finance Member, hoping that he would deal with and possibly answer some of the strong objections which I felt to the Bill, but as a matter of fact not only was he unable to allay my misgivings, but, if anything, he rather increased them; and I think it is a rather remarkable fact that out of eleven Honourable Members of this House who spoke during that debate, ten of them were strongly opposed to the Bill and only one spoke in its favour; and personally, I am inclined to think that he spoke in its favour because he was largely labouring under a misapprehension (Laughter). Now, Sir, a considerable time has elapsed since that debate, and I thought that possibly the lapse of time and reflection might bring changed opinions, and so I read through the whole of that debate again two or three days ago with some care, only to find that my previous views were unaltered, except that possibly I hold them rather more strongly than I did in the first instance.

Now it seems to me that the arguments against the Bill were very clearly and very forcibly put by many speakers in Simla, notably amongst them my Honourable friends, Mr. Chetty, Mr. Mody and Mr. Heathcote. I therefore do not want to elaborate these arguments at any great length. But, it does seem to me that there is still a good deal of misunderstanding. Only a day or two ago I was talking to an Honourable Member in this House and he assured me that we had been promised that this Bill would not result in any double taxation. I do not know whether I have misheard or whether I am very dense, but certainly that is not the conclusion that I have arrived at either from the Bill itself or from the speeches I heard or from the opening speech of the Honourable the Finance Member, and it seems to me that there is definitely going to be double taxation. The other misapprehension that still seems to exist is that it is a Bill which is only going to affect the rich man, that it is only going to tax the bloated capitalist, and that therefore it is a rather good measure to pass. Well, I hope I shall be able to convince Honourable Members later on that that is very far from being the case,—that the man who is really going to be hit most and hurt most is not the capitalist but is the comparatively small trader who is bound to suffer double taxation without any possibility of redress.

Now the primary object of this Bill is to prevent the flight of capital from India, sent out it is thought with a view to avoiding having to pay income-tax. I think that in any case, Sir, that argument has lost a good deal of its force since the Simla Session, for, unless I am much mistaken, that flight of capital has now very largely ceased. But in any case no case to my mind was put up even then to show the amount of capital which was actually going out of the country, or to give us

any proof that it was actually going in order to avoid income-tax. In my opinion the question of avoiding income-tax was only a very minor one, and if it has had any effect on encouraging the flight of capital from India, it is only a very small one; in fact the Honourable the Finance Member himself was not able to put the case very strongly; the best he could say for it was that, in the absence of other causes, this would act most strongly. I do not think that that is a very strong argument in favour of the Bill. I do not think I need spend much time in stating what really were the major causes for the flight of capital. They must be very well known to most Members of this House; but obviously the first and the most important one was the question of capital security. Political and economic unrest in the country made people nervous, naturally nervous, about the security of their capital, and if there is any risk of losing your capital, the amount of return that you are going to get on it has to take a very second place. The second reason for the flight of capital was the question of the exchange ratio. In the first place, there were a number of speculators who thought that they could send their money out of the country at 1*s.* 6*d.*; that the ratio would then come down; and that they could bring it back at 1*s.* 4*d.* or 1*s.* 2*d.* or even at a shilling. In a case of that sort, the question of whether it had to pay income-tax or not was a very minor consideration if they were going to make as much as two pence or four pence or even six pence in the rupee as profit on the exchange. Then there was another class of people who were also nervous about the ratio, but with them it was not a case of speculation; it was a case of being generally afraid that the ratio would come down; they felt that they had better get their money out of the country before it did. I think there was also a third class, but necessarily a much smaller class, namely, those who had money invested in this country but who, owing to bad times and the general depression, wanted to get it out partly on account of the unrest and partly because they wanted a certain amount of it, at any rate, to meet their ordinary expenditure. Now, Sir, not in one of those cases will this Bill, if it is carried, have any effect whatever in stopping capital going out of the country. I can speak in a small way from a certain amount of personal experience, for I have actually seen case after case of money going out of the country for those very reasons. In many cases this was money which has been invested in this country for many years and the investors who in the ordinary way had no intention of doing anything but leaving it here decided, because the country was unsettled and because they were uncertain about the exchange ratio, that the safest thing to do was to get their money out while they could. Not in one of those cases, even if this Bill is passed, will any of that money have to pay income-tax, because it is money which belongs not to anyone domiciled or resident in the country but to people in most cases who themselves or whose ancestors were in this country years ago, whose money was left out here. They are now residents in England and consequently even if this Bill becomes law, they will not be liable to pay any income-tax whatever on that money.

Then, Sir, there has also been quite a large amount of money withdrawn from Provident Funds and sent home, and in many cases that money, I understand, has been invested in one premium policies. That money, again, even if this Bill becomes law, will not be liable to pay any income-tax and that shows just one method by which such a law could easily be evaded.

[Mr. E. Studd.]

So much for the objects of the Bill and the defects as far as that is concerned. But there is, to my mind, an even more cogent objection, and that is that this Bill raises a constitutional issue. It seems to me that it endeavours to change the whole basis of income-tax law in this country. It seeks to change it in a very controversial way and I submit that a controversy of that sort ought never to have been raised now that the Round Table Conference and its various Committees are considering the whole question of the new constitution for this country. In addition to that, it is a measure which must to a considerable extent involve the Indian States. And as far as my own community is concerned, there is certainly another objection to it, and that is the proposal which was raised to differentiate between residence and domicile. As my Honourable friend, Mr. Heathcote, pointed out in his speech in Simla, that question is not primarily a racial one. It is not only the British community which is affected but also the Japanese, the Greeks and many others and even the subjects of a number of the States would equally be affected. But I should like to repeat what my Honourable friend, Mr. Heathcote, said as far as the British commercial community are concerned that we have never asked for or sought this concession or discrimination. I personally feel that it puts us in a most embarrassing position at a time when the whole question of trading rights is being discussed. But, Sir, apart from those objections, I am confident in my own mind that this is a measure which could not be worked or, at any rate, which could not be worked fairly. The Honourable Sir George Schuster admitted that he had never been in a position to get returns of foreign income and that there was no basis of calculation. It does not seem to me that he is going to be any better off if he does get this Bill passed into law. Evasions are bound to be large. Even with the present law, evasions of declaring income accrued in this country are large. I should like, if I may, to commend to the special notice of the Honourable Members of this House the comments that are made on this subject in the Report of the Banking Inquiry Committee. There are some very enlightening figures there in which they attempt to estimate the total amount of rural indebtedness and the total amount of interest which is paid to money-lenders. As against these figures they show the actual number of assessees in various provinces in India. The figures are very startling and make it perfectly clear that there must be an enormous amount of evasion. When it is remembered that all these figures show the total number of assessees in any particular province, that is to say, urban as well as rural and against that they have put only the rural money-lenders who should be assessed, the difference becomes even more striking. For instance, in Coorg the number of money-lenders is estimated at 100,000 and yet the total assessees, urban and rural, are only 14,500. I do not want to go on quoting figures, but those paragraphs in the Banking Inquiry Committee's Report are well worthy of study. If evasions in the country are large, I think it stands to reason that evasions when it comes to income earned outside the country are bound to be larger, for it will be much easier to evade and much more difficult for the Income-tax authorities to have any check whatever on the figures submitted. I entirely agree with my Honourable friend Mr. Chetty when he said that the net result would be that the honest man will pay more and the dishonest man will escape altogether. But I think we can go further than that, for one of the opinions which was circulated to us

happens to be the opinion of an Income-tax officer who has practical experience of working the present law as it stands. His opinion on this new proposal was not only the same as Mr. Chetty's, namely, that the honest man would have to pay more and the dishonest man would escape, but he went further than that by saying that it would most probably antagonise the very honest men who at present are prepared to submit a correct statement to the Income-tax authorities.

No evidence as far as I can see has been produced to show that this Bill would achieve its object or to show that any substantial increase of revenue would be brought into the treasury. The Honourable the Finance Member described it as a possible source of revenue. It seems to me that that possible revenue is going to be obtained at too high a price. For it is undoubtedly going to entail very considerable hardship on certain sections of the community.

Now I must confess to considerable surprise that the Government should have thought fit to go on with this Bill in the face of the opinions which they have received as a result of circulation. As I said before, I anticipated before the Bill was circulated, that there would be strong opposition to it in certain quarters. I certainly did not anticipate that in addition to commercial and trading interests and other public bodies being opposed to it, there would be an immensely strong body of opinion from Provincial Governments which are also against it. What actually is the position if those opinions are analysed? Six of the major provinces are whole-heartedly and entirely opposed to the measure. Another one says that it will fall on honest men and be avoided by others. One other province approves of it provided the discrimination clause is left in, another approves of it only if the discrimination clause is left in and only if adequate arrangements are made for collection and the revenue resulting from it is considerable. As the Honourable the Finance Member has already stated that he is quite prepared to drop that discrimination clause in view of the strong feeling expressed in this House, we may take it that those last two provinces would now be opposed to the measure. Not only are Provincial Governments against it, but there are a number of expressions of opinion from income-tax officers themselves, men who have the practical experience of working the present law and who know the difficulty with which they have to contend and can therefore foresee the further difficulties which would be produced by this new proposal. There again the opinion is adverse. I feel a little inclined to ask what the point of circulating a measure for opinion is if when you get those opinions and they are not in favour of the measure, you still proceed to go on with it. There is another point. There are sitting on the Government Benches a number of officials, nominated Members who come from those very provinces which have expressed strong opinions against this Bill. Are those Members going to be allowed to vote in accordance with the views of their province, or are they going to be compelled to vote in accordance with the views of the Honourable the Finance Member? (Hear, hear.) I quite realise that I shall probably be told that they do not represent those provinces. It may be perfectly true, but it does seem to me a little bit unfair that a Member nominated to this Assembly from a province which disapproves of this Bill should not be allowed to express the views of that province. (Hear, hear.)

[Mr. E. Studd.]

I now come to this vexed question of double taxation. In the first place, let us take the question of investments. The Honourable the Finance Member was at pains to explain in his speech that at any rate as far as countries with which there was a reciprocal arrangement were concerned, there would be no double taxation, and he took as an instance the case of an investor who had £20,000 invested in Great Britain. He tried to show how such an investor would not actually have to pay double taxation because he was in a position to obtain a refund. But as my Honourable friend Mr. Heathcote pointed out, the position is not quite so easy as it appears. What actually would happen would be that that investor would have to pay double taxation, he would have to pay the tax in Great Britain and he would have to pay the tax in India and after that he would have to put in an application for refund and in due course, probably many months afterwards, he would get his refund. It would mean a great deal of trouble and a great deal of delay and in the meantime he will be out of pocket for the extra money. That is all very well for the large investor, but what about the small investor. It is going to be much more difficult for him to recover or even to make his application for a refund. For there is one great difference between what happens in Great Britain and what would happen in this country to which I do not think, so far, any one has called attention. That is if in Great Britain any one has had to pay double tax, that is to say if he is taxed in Great Britain on an income which has already paid tax abroad, he submits his claim for refund to his own local income-tax authorities which is a very different thing to an Indian investor having to submit his claim for refund to unknown income-tax people 7,000 miles away. Therefore while eventually the investor might be able to get a refund, he would certainly have to suffer a great deal of hardship and go through a great deal of trouble and delay before he got his refund. That is only dealing with one case. If you take a number of countries with whom reciprocal arrangements exist it is extremely small. The Honourable the Finance Member says that it is perfectly easy for any one who wants to invest money abroad to find somewhere either where he does not have to pay income-tax or where there is a reciprocal arrangement and he can get his money back. But why should we have to submit to regulations of that sort? Why should any one be dictated to as to where he should invest his money? It does seem to me that reciprocal arrangements ought to be made first and then after that it will be time enough to consider bringing in a measure of this sort.

When we come to the question of trading profits, we come to a much more serious matter. In that case there is no hope of any exemption from double taxation. There is no possibility of getting any refund, and I submit, in spite of what the Honourable the Finance Member had to say on that subject, that that is a very great unfairness to a large section of the community. I should like particularly to refer to one class to which my Honourable friend Mr. Mody referred, namely, that of Indian insurance companies. As everybody knows the whole basis of insurance business is dividing the risk which is done by reinsuring. A great deal of that has to be done abroad, and in most cases an insurance company doing business in another country is compelled by law to deposit in that country either hard cash or fixed recognised securities,—and the amount they have to deposit varies with the amount of business that they do,—is it fair that that insurance company should have to pay income-tax not only on the income

from those investments but also on the profits which it earns in that country, and should then have to pay the whole of that tax again in India? Let us not be under any misapprehension on this subject. It is not the rich capitalist who is going to suffer most. He can in some instances get a refund and avoid having to pay a double tax. But there are hundreds and thousands of small traders trading in various parts of the world not one of whom is going to have any chance whatever of avoiding double taxation. And I submit that in times like these with the tremendous depression that exists, when trading concerns are facing steadily reducing profits and steadily increasing rates of income-tax,—which I would remind Honourable Members are assessed for one year on the profits of the previous year which means that probably for this year the trader is assessed on a sum which he has no possible hope of earning,—to put an additional burden of this sort on a community who are already feeling the effects of the depression which now exists is, I submit, grossly unfair.

The Honourable Sir George Schuster (Finance Member): Sir, I should just like to ask my Honourable friend if he is aware of the existing law on the subject. He is speaking about putting an additional burden on people trading abroad. Is he aware of the fact that under the existing law business profits if they are remitted to this country are liable already to Indian income-tax?

Mr. E. Studd: I am quite aware of that. Personally I am inclined to think that even that is a hardship, but I submit that under the new provisions it would be a greater hardship still. Now the trader has at least an opportunity of avoiding having to pay the tax if he does not bring his trading profits in within three years, whereas under the new proposals it does not matter whether he brings it in or not. Even if he does not bring it in he has still got to pay.

Now, Sir, I should like to say one word on the only speech which was made in the Simla Session in favour of this measure and that was the speech of my Honourable friend Mr. Amar Nath Dutt. As far as I was able to follow him, his argument was that it is much better to make the rich capitalist pay than either to reduce the pay or dispense with the services of poorly paid clerks and menials. My answer to that is that as a matter of fact I believe this measure will not prevent the thing that he is afraid of but will hasten it. For however much in times like this a business concern may dislike the idea of making cuts in pay or of reducing its staff, it is perfectly impossible to continue employing the same staff and paying the same salaries when the firm is not earning any profits. That is the position that a very large number of trading concerns in this country are in at the present moment, and if this additional burden is put upon them, it will make that position still more acute and it will merely hasten the cuts in pay and the reduction of staff which my Honourable friend wished to avoid.

There is one other point that I should like to mention. The Honourable the Finance Member said that he had been advised by the income-tax authorities that this measure presented no administrative difficulties and that it simplified the question as to whether a remittance to this country was capital or income. That may be, but what about the administrative difficulties of trying to find out who has got income earned outside this country? It is hard enough to find out the correct income earned in this country; it must be ten times more difficult to find out who has got income

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which is earned in some distant part of the world; and I submit that this is an administrative difficulty and a very serious one.

Now, Sir, I do not think I have much more to say but I should like to summarise the points which I have tried to make. I maintain that this Bill will not achieve its avowed object of restraining the flight of capital from this country. We have nothing to show that it will produce any substantial amount of revenue. I think we have everything to make us fear that it will entail very grave and considerable hardships. It raises constitutional and controversial issues which many of us think should not have been raised at the present time. It has been strongly opposed by Local Governments, by public bodies and by income-tax officials with practical experience of the working of the present Act. It undoubtedly imposes heavy hardships on the trading section of the community which perhaps almost less than any other at the present moment is in a position to bear an additional burden. I do not think that it can possibly be claimed that it is workable with fairness; and therefore, Sir, I strongly oppose the reference to Select Committee.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Sir, I am surprised at the great influence which the capitalist exercises over the Legislature and over the Provincial Governments. Probably it is true to say that it was the capitalist who brought the great war over the world. This small measure which has been introduced in this House is clearly a measure which will bring some money to this poverty-stricken country. It is a measure which will bring into the fold of law those big capitalists who by means of sending their money out of the country are avoiding payment of income-tax. I really cannot understand what else this Bill means, and still it is being opposed from all corners of the House. Sir, the other day when the Finance Bill was being discussed in this House, we were told that the Indian taxpayer is heavily hit by the taxes, that the last straw to break the back of the camel had been placed on it, and that the Indian taxpayer cannot pay any more. We also know that the measures for providing revenue which were introduced in the last Assembly cannot bring as much money as we expected. Then what would be the result if we do not tap even the smallest source of income which is available? No doubt, everybody feels the pinch of paying taxes. I know that many big capitalists, and specially my friends the European traders, who have earned lakhs and lakhs of money in India, are taking it out of this country, and in that way they are avoiding the payment of income-tax. They want to take the cream of the country, but they do not want to shoulder the burden of the inhabitants of this country. All that this Bill aims at is to stop the flight of capital from this country and also to ensure that the income earned from the capital of this country is made liable to income-tax. My Honourable friend who preceded me has shown that there will be evasion in the collection of this tax. At the same time he has also pointed out that the present income-tax law is defective to such an extent that even under the law as it is now a very great deal of evasion is going on. Therefore, Sir, if we follow the argument of my Honourable friend, it would mean that if a law is such as to make evasion of it possible, then that law should be abolished; that would mean, according to my friend, that even the present income-tax law should be abolished and that there should be no income-tax at all. If there is evasion, then it is the duty of the Legislature to improve the law in such a way as to make such evasion impossible, and

not that there should be no law at all. I really cannot understand the logic of my Honourable friend. The present motion is not to pass the Bill as it has been placed before the House. The present motion is to refer the Bill to a Select Committee. This motion aims only at accepting the principle of the Bill . . . .

Mr. E. Studd: Which we don't.

Sir Muhammad Yakub: Of course, you won't; you will agree to the addition of any burden on the poor Indian, but you will not agree to shoulder the slightest burden when it affects the European community . . . .

Mr. E. Studd: May I point out to my friend that the main part of my argument was that this measure was going to affect the small Indian trader harder than anybody else?

Sir Muhammad Yakub: Could my Honourable friend say how many poor small Indian traders have invested their money in Europe or anywhere outside this country? Probably, he will not be able to give us the names of even half a dozen poor traders; these poor traders have not got enough money even to invest in India, how can you expect them to invest money abroad? This is simply bosh. (Laughter.) You speak in the name of the poor trader! You really want to avoid paying income-tax under the cover of protecting the poor Indian trader. I am sure he will not be affected by this measure. It is only the big capitalist who has got surplus money and wants to avoid paying income-tax, who wants to hoard it in banks outside India, who will be affected by the present Bill. Only the other day questions were put to the Honourable the Finance Member in which he was asked to say how much gold was exported from India. Has anybody ever asked the question as to how much during the last two years has been taken from India and invested in banks outside this country? Is it not taking capital out of the country, and does not such a process make the country poorer? Therefore, Sir, I submit that the present motion is not to pass the Bill as it is; there might be some defects in the Bill which can all be rectified in the Select Committee. For instance, I myself consider that the difference which has been made in the case of income which is accrued and the income which is spent is a thing which requires amendment. There might be certain other provisions in the Bill which also require amendment. We have at this stage merely to accept the principle of the Bill which, I submit, is quite sound, reasonable and justifiable, especially in the present conditions of the country, and, as I said, if there are any defects, they can be removed and the Bill can be amended in the Select Committee. Therefore, Sir, with these remarks I support the motion before the House.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I must confess that I was also under the same misunderstanding as my friend Mr. Moore with regard to continuing the debate to-day on this Bill. Sir, no one should underrate the importance of this Bill, and I expected that there would be many speakers on this important subject, but apparently there has been a misconception that because the debate was carried on in September last there need not be a full dress debate on this question to-day. I do not agree with the view expressed in certain quarters that the debate should be confined only to the question whether this Bill should be sent to the Select Committee or not; nor do I agree with the view that the question of principle is not involved in this. It is not merely the details that we are going into, but as I shall presently show, committing

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this Bill to a Select Committee at this stage is not at all just and proper. The main question that we have to take into consideration is, what is the aim and object of this Bill, what does it seek to achieve, and whether the measure, if passed into law, will affect prejudicially the people of this country or not. Then it has also to be considered whether it affects the capitalists only or the other people of India also. In this connection I must point out that the Bill as it is presented to us requires that the levy of income-tax should be made on the investments made outside India, whether the profits of those investments are brought into India or not. The present Income-tax Act requires that when investments are made outside and some profits are brought into India, those profits alone are to be assessed; but now an attempt is made to make all the investments made outside liable to tax, whether any profits accrued on such investments are brought into India or not . . . .

The Honourable Sir George Schuster: My Honourable friend will pardon me for a moment, if I point out that he is perhaps misleading the House as to the present state of the law. The present state of the law is that, so far as the business profits are concerned, they become liable to tax if they are brought into the country within three years from the dates they are earned, but so far as dividends on investments are concerned, they do not become liable to income-tax whether they are brought into the country or not. That is one of the main points missing from the present law which this Bill seeks to amend.

Mr. Lalchand Navalrai: I accept what the Honourable the Finance Member says, but taxing business profits accruing outside India is also a serious question that should be considered. The point is whether business profits which have been made outside and have not been brought here should not be assessed at all. I think I am correct in this statement. Then I submit that the present attempt of the Government in this matter, in my humble opinion and in the opinion of those whom I represent, and in the opinion of the merchants of Sind, is not at all just and proper, and I may say that if we allow Government to carry out their object, the trade of India will be affected, the commerce of India will be affected, and the very enterprise of India will be affected. That will mean an attempt to stop Indian trade outside. It will give a death blow, as I call it, to the freedom of Indian trade abroad. Now, the British Government always advocates free trade. Why then has not everybody got a right to invest his money anywhere he likes and why should that be made difficult? I ask, when money is invested in business outside, is it for the good of India or no? Is India profited thereby or not? I say those who go and invest their money outside in business bring back actually more money, and that money is used in India for the help of the rich and the poor alike. It may be that some Members do not know personally how this happens and how some merchants in Sind have become rich by this process. Sir, there is a class of merchants in Sind who are called "Sindwork merchants". They go all over the world. Wherever you go you find them. I will give my personal experience. When I went round the world, up to America, I found everywhere this Sindwork merchant. He goes out with a limited fund and returns heavily loaded. Sir, by this Bill Government are actually cutting away that enterprise of the Sindhis and deterring them to their prejudice from making their investments outside. If they are rich now, they are helping not only the

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country, but I say that they are helping the Government also, for several Sindwork merchants have given loans and other kinds of help to the Government in times of need, and how hard it is to do anything which goes to impede their trade and adventures in foreign countries. I am not talking of this apprehended hardship from my own imagination or from my own fancy. The fact is that after this Bill was introduced in House, a number of telegrams and letters came to me from Karachi and from Sindwork merchants, as also from the pearl merchants of Tatta and they began complaining of this Bill. In their anxiety they even accused me of not having informed them of this Bill. Then I had to go up to them to Hyderabad and Karachi and explain to them the situation. They were deadly against this Bill being sent to a Select Committee. Therefore it should not be understood that I had no intention of speaking on this Bill. I was ready to speak on this Bill, but some misunderstanding arose; Dr. Ziauddin Ahmad got up and put certain questions and while he was getting an answer I thought that he had caught the eye of the Chair and therefore I did not get up.

Now, to pick up the thread of my argument, I say that the trade and enterprise of India will be jeopardised by this tax. It may be said that money should not fly out of India. If money flies outside for the purpose of being lost, or for the purpose of bringing back no profit then certainly it should not fly out of this country. Otherwise let it fly and bring in very much more. Therefore, my main point is that the people of India will be affected very much by this Bill. If money gets increased and is brought to India and is used here, it not only gives benefit to the rich but it in a way helps even the labourer. The Sindhi merchant will keep ten servants instead of one, and he will pay liberally in like manner to the labourers and the other working class. Even the shopkeepers are helped by these people in the shape of advancing to them small loans. Sir, furthermore this tax would be a double tax, or rather a treble tax. I call it treble because the Sindwork merchants—for instance, people like "Pohoomal Brothers", have got their businesses all over the world,—in Japan, in China, in England, and America. In all these places they make profits and pay income-tax there. The question of getting a refund of the income-tax which has been referred to by my Honourable friend from the European Group and has been fully explained. At some places they may not get any refund at all. But apart from that, realize the difficulties of getting that refund.

The Honourable Sir George Schuster: Will my Honourable friend inform the House what is the income-tax in Kenya?

Mr. Lalchand Navalrai: I am not an encyclopædia.

The Honourable Sir George Schuster: Will the Honourable Member take it from me that there is no income-tax in Kenya, and no income-tax in a great many of the other countries he has mentioned.

Mr. Lalchand Navalrai: Is there in Japan or not? I wait for a reply. Is there in China or not? I pause for a reply.

The Honourable Sir George Schuster: I am not also an encyclopædia. (Laughter.) I happen to know that there is no income-tax in Kenya.

Mr. Lalchand Navalrai: The point is not whether there is income-tax at certain places or not, but the difficulties I am pointing out go to show that double income-tax will have to be given at certain places if this Bill is successfully carried through.

Now, coming to the question as regards the trade being affected, I think the attack made by Sir Muhammad Yakub on the European side was unnecessary when he said that it is only the European community in India that wishes this Bill not to be passed.

Sir Muhammad Yakub: I am very glad that my Honourable friend has got some sympathy with the Europeans.

Mr. Lalchand Navalrai: There is no question of sympathy. Where it is well-merited it must be given.

Sir Muhammad Yakub: I hope he will continue this.

Mr. Lalchand Navalrai: Yes. If it is well-merited it will be given up to the day of my death; because I have no personal restrictions on me for giving or not giving sympathy and goodwill as is the case with some others. What I am submitting is also the opinion of the Indian merchants which I will presently refer to. If the opinion is unanimous among the Indian merchants as well as the Europeans, then I think the Government should pause, should hold their hands, and not proceed any further with this Bill, especially at a time when Government themselves say on the occasion of private Bills and motions that this is not an opportune time for bringing them up. Is this the time, then—when the country is in great distress, when the country is just now under the rule of ordinances, when the country is now under *lathi* charges, and there is no peace in the land—is this the time to create trouble again and impose such taxation? Income-tax is one of the items upon which people get discontented, and it will be wise on the part of the Government not to bring forward motions like this. They should have profited by the defeat they got when their whole Finance Bill was thrown out by the Assembly. To again bring up such Bills is to create more and more discontent, and the responsibility thereof must lie upon the Government and Government alone.

Mr. B. Das (Orissa Division: Non-Muhammadan): Do you think that the Europeans will practise civil disobedience?

Mr. Lalchand Navalrai: If it comes to that, if they are dragged down to the extent to which we are dragged down.

Sir Muhammad Yakub: You ought to be glad for that.

Mr. President: Order, order.

Mr. Lalchand Navalrai: Sir, I was referring to the opinion of the Indian merchants. I think I can do no better than read portions of it and I shall not take up much of the time of the House in doing so. Sir, I refer to the Karachi Indian Merchants' Association—no one can slight the merchants of a port like Karachi. It is a rising port. It competes with

several other ports, and the body of Indian merchants there is an influential body. It has the support of all the people and I am reading a portion from the resolutions that have been passed by them. They say:

"Indian Capital invested abroad may be liable to income-tax or to the taxes payable in the countries in which it is at present invested. The additional burden of Indian income-tax and super-tax may cut the indirect flow of profits to India. This double taxation may make profitable business impossible and may be therefore harmful to Indian enterprise in other lands."

This is what I have myself said and I endorse what they say. Then they say further on:

"Employment of Indian capital is often accompanied by employment of Indians. If the employment of capital outside India is prevented it would also prevent the employment of several Indians outside. The earnings of Indians and the profits of capital invested add to the wealth of the country. The Bill would militate against this.

One of the harmful effects of the Bill may be to affect residence of some of the income-tax payees. Some of those affected may change their residence and take residence out of British India for more than six months. For instance, several of the inhabitants of Indian States now residing in British India may easily change their residence and even domicile. That would work against the interests of the country.

My Committee regret to note that a racial distinction has been drawn in the Bill and they support the remarks of Mr. C. C. Biswas made in the Legislative Assembly on the 28th March, 1931."

This is one opinion. Then there is a further opinion from an influential body in Karachi, the Buyers and Shippers Chamber. Their opinion is still more weighty. They say:

"The objects and reasons as stated in proposing the Bill are mainly two:

To follow the lines of the law in force in the United Kingdom and to curtail the investment of capital abroad.

My Committee is cognizant of the fact that certain British securities are free of British income tax to residents abroad. This exemption was given by the British Exchequer, with the full knowledge of the United Kingdom when the British Government wanted finances and these were given by the investing public specially the Indians in good faith knowing then fully well that the income if outside and if not brought into British India, will be free of Indian income tax as well. A change now is a breach of a moral code of honour."

Further on they say:

"The second reason given out is to check the flow of money to foreign countries for investment. It is too late in the day to think about this checking.

The Government of India is solely responsible for this transportation of capital by their actions in floating Indian loans in England at a higher rate of interest and on better terms than paid in India and given to investors in India, notwithstanding the fact that rupee and sterling loans were floated about the same time and the British Government permitting income, *i.e.*, interest on these loans to be free of British income-tax to residents abroad.

The sterling Indian loans were floated and higher rate of interest paid and the laws of the United Kingdom freed the interest from British income-tax to residents abroad, merely that the Government of India could maintain by artificial respiration the death dealing policy of the Government of India, namely, the ratio exchange question.

The Government of India simply with a view to maintain their mistaken legislation have tried all sorts of artificial supports and introduced this Bill."

Sir, stronger arguments than these cannot be made. It is made quite plain now that it is no question of only capitalists or the rich men being affected. There is no question that by this taxation trade is going to

[Mr. Lalchand Navalrai.]

flourish instead of going down. This is not a detail. This goes to the very root of the principle of the Bill. Therefore this is the fittest time for this House to oppose this Bill which appears to be quite unjust.

Then the second question is that this Bill also makes an invidious distinction between certain persons who are charged and certain persons who are not charged with this income-tax. With regard to that the Bill in clause 4 (*b*) says, " Income which accrues or arises to such person without British India during that year, if he is resident and domiciled in British India in that year". You know the words that I want to emphasize. Only those persons who are resident and domiciled will be charged. This in my opinion exempts the European community altogether. What I submit is that "resident" would mean any person who resides here, but domicile according to the dictionary meaning would be permanent residence. Europeans would always say, "We are not permanent residents of this place" and very rightly too. There is a discrimination here and that should be removed. I am glad that the Honourable the Finance Member has seen through this. He has made certain statements indicating that this objection is a valid one but some definite statement should be made about it here rather than in the Select Committee if this Bill goes at all to the Select Committee. We should know definitely whether the word domicile will be deleted from the Bill.

Mr. B. Das: I thought the Finance Member explained last time that there will be no discrimination between domicile and residence.

Mr. Lalchand Navalrai: I do not doubt the *bona fides* of the Honourable the Finance Member but the words used are always liable to many interpretations. Then why not say here definitely whether this word "domicile" will be taken away from the Bill. I say, Sir, with all deference that the assurance given is very indefinite and vague.

Sir, it has been urged that this Bill has been brought in order to bring the Indian income-tax law into consonance with the English law. There again I do not agree. If I give my own opinion that the English law is different, then it may not be accepted but I shall give the considered opinion of a high judicial authority which supports me in the view that I hold. On that point, Sir, I would refer to Paper No. 1, pages 28 and 29. Sir, we have an eminent judge in Sind on the Bench of the Judicial Commissioner's Court—Mr. A. H. S. Aston, Barrister-at-Law, Additional Judicial Commissioner of Sind—and what he says in this paper is this:

"The proposed Bill is described in the Statement of Objects and Reasons as an amendment of the law, following the lines of the law in force in the United Kingdom, while still retaining origin and remittance into British India as bases of liability in certain circumstances. The proposed amendment of section 4, however, introduces a distinction between liability to tax based on residence and liability to tax based on residence and domicile, which is a departure from the English Law. It is true that where a tax-payer is an individual partner in a business exclusively carried on abroad, in which he takes no active part, he is liable to pay income-tax only on so much of the profits as is received by him in the United Kingdom, but no distinction is made, in this regard, in the English law between a partner who is resident and a partner who is domiciled and resident in the United Kingdom, and the only reason for the exemption from liability to tax upon that portion of the profits, not brought into the United Kingdom, is the absence of the machinery in the Act, by which the duty in such a case could be assessed; see Halsbury, Vol. 16, paragraph 1300 and note 1. With this solitary exception liability to tax in the English law is based on residence only; see Halsbury, Vol. 16, para. 1300."

So there are other opinions also in this very paper which go to support my view on that point. Then, Sir, there is also another difficulty which has been pointed out at least by one of the gentlemen who has reported, and that is with regard to the difficulties in recovering or finding out the income which is earned outside. It is said that the main objection to this enactment is that it will be very difficult to get a return of the income accrued from foreign investments and that the collecting charges on that will be very heavy. That of course is for the Honourable Member to say, but we know even here that so much is being spent on the Income-tax Department for the recovery of the income-tax, and it was pointed out, when income-tax was being placed on those people, whom certainly we will call poor people, having incomes under Rs. 2,000, that the charges that would be incurred in effecting recovery from these people would be higher than the income-tax derived from them. On the same principle there would be much greater difficulty here. I may also point out that not only will the Government have such difficulties but even the people of India who invest money in businesses outside would have a peculiar difficulty, since the latter are used to post their accounts in a particular manner as is required of them in those countries. It would lead to a very complicated question of going into accounts satisfactorily.

Sir, I think I should not weary the House with any more remarks. I expect there will be other Members who will oppose this Bill, which appears to me to cut, I must repeat, at the very root of Indian trade, Indian commerce and Indian enterprise. With these words, Sir, I recommend that the Bill should not be committed to a Select Committee.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, so much has been said about the Bill from the point of view of the commercial community that I think it is only fair that I should submit one or two observations to this House from the agriculturists' standpoint. So far as I understand the scheme of the Bill, it not only ropes in income outside India, but also income inside India, for instance, income which accrues in an Indian State. Now as I have had something to do with an Indian State, I shall put before this House a concrete example. Suppose I own some lands in the Hyderabad State. That land has got to pay land revenue in that State as well as to meet the expenses of cultivation. And there is probably some margin—5 or 10 or even 30 per cent. Now will it or will it not be included in income taxable in British India? If that income, say Rs. 2,000, accrued in British India, it would not be taxable, but if it accrued in Hyderabad State, it would be liable to be taxed. Is it fair, I ask, that income derived from a place where, as one gentleman has pointed out, the amenities of life, which are alleged to have been provided by the British Government, do not obtain and which amenities of course have to be paid for, should be roped in? Sir, the difficulty in assessing a foreign income of this nature is increased tenfold when you find that the agriculturists proverbially do not keep any accounts. I have had some experience of these income-tax officers, more especially since the new system came into existence under which you have got a large number of income-tax officers who are supposed to administer this law with great efficiency and to check the attempts of people to escape from taxation. Now, Sir, even as it is, though the income-tax officer knows that money accrued in a foreign place, for instance, in an Indian State, and which does not come into British India, is not liable to tax, yet you will be surprised to know that year after year I receive notices threatening all sorts of pains and penalties

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if I do not submit a return of salary which does not affect my professional income from a profession which I do not now practise, and that I should submit a return of everything that possibly some very distant relation of mine gets by carrying on business somewhere else, *i.e.*, outside British India. The books are then sent for. If by some chance some money is found to have been received from an Indian State, the officer does not care to find out why it came and whose money it was and whether it was borrowed in order to meet the Government demand in British India. I object personally to the bringing of the account for the simple reason that I never keep any account. I go and borrow the money whenever I want it in order to meet the demand here, but the Income-tax Officer is inexorable. He must have the accounts or we have got to pay the tax. Though you cannot assess an income which has accrued in a Native State, yet you have got all this bother to get through. If you make it possible for him to tax the money which has accrued outside British India, then, Sir, the calamity would simply become unbearable.

But it is not merely the administrative inconvenience of satisfying the demand of the Income-tax Officer that I am concerned with. The Taxation Inquiry Committee went into this matter somewhat carefully and came to the conclusion that a return from this source is not sufficiently large to justify the trouble that would be taken by introducing this change in the law. Now, that statement has not been challenged either by the Honourable the Finance Member or by any other Member in the House. Is it or is it not a fact that the return would be so negligible that the trouble taken to realise it would be out of all proportion to it? That is what some of the Local Governments, to whom the matter was referred, have said. That is what the Taxation Inquiry Committee have said. Yet you want to submit the country to this unnecessary taxation. Sir, the question of the foreign income is a very delicate matter. If you happen to go to a Native State you will find lots of small traders go there from British India who do business for a short time and after making some money return back to British India. Now, if you make their income liable to taxation in British India they will have to submit the accounts and they keep no accounts. What will be the result? I think there is a section—it is section 23 clause 4 if I remember aright—which gives to the Income-tax Officer power to tax a person who does not produce his accounts to the best of his ability and judgment. Now the best of the ability and judgment depends upon the whim of the officer that morning; probably he may be suffering from a fit of indigestion. I am not talking without chapter and verse when I say this. I myself have been a victim of this. Because I failed to produce my accounts for half an hour, the Income-tax Officer assessed me to Rs. 4,000. I wish I had that income, leave alone the assessment. That would be the way the small traders are treated. They will be harassed to an extent which is unimaginable. It is all very well for you, sitting here in Delhi and in Simla, to say that these things do not happen, but the House will remember the graphic description of the ways of the Income-tax Officer that my Honourable friend Mr. Misra gave at the time when the Finance Bill was being discussed. If I had the time and inclination and desire, I could expatiate upon a matter like that for three days, but it is absolutely unnecessary to do that. I want that our statements should be accepted if we are the representatives of the public, unless they are palpably absurd. I submit therefore that this Bill is entirely unnecessary and uncalled for. For

the next 18 months you have secured yourself. There was a rumour that there will be another Finance Bill and we have been told now that this will not be the case. So, up to the end of March 1933 you have secured ourselves against any inroads upon the income, and you have got plenty of money from taxation, which comes to something like 19 crores or 24 crores, I do not remember which. That being the case, why should you amend the Income-tax law? Let the new Government do it if it comes into being at all. Throw it upon their heads and let them adjust their position. At present you are in a very good financial position and things augur well for the future, subject, of course, to the internal conditions of the country about which nobody can say at present. I had thought when the special Finance Bill was passed that our troubles regarding income-tax were over, but I reckoned without my host. This thing is still with us and I find that the Honourable the Finance Member is still in need of more money for his expenses in spite of the Retrenchment Committees. But I am not concerned with that, nor am I well enough versed in high politics to be able to understand why the expenses have gone up. The only point that I am concerned with is that this Bill, if it becomes law, would not only affect the richer class of people who probably can afford to pay even if they labour under a grievance, but it would also affect the agriculturists and the poor traders whose incomes are very small indeed. They will be asked to pay a tax which they cannot afford to pay.

Now, Sir, so far as South India is concerned, I am exactly in the same position as my friend Mr. Lalchand Navalrai is in Sind. I have been flooded with numerous telegrams opposing this Bill. They have all asked me to place their views before this Honourable House. It would weary the House if I were to read out telegram after telegram and Resolution after Resolution that I have received. The whole case is clearly put in the opinion submitted by the Nathukkottai Nagarathar Association of Southern India. This Association consists mostly of the enterprising element of South India, and it has had business relations practically throughout the whole of Asia for a long time. They point out in a cogent and well reasoned document that not only will this not bring in the return expected by the Government, but that it would seriously affect their interests. The same opinion is expressed by the South Indian Chamber of Commerce. Therefore I submit that even if you can get some money out of this Bill, it is neither the time nor the occasion to introduce it especially after the Finance Bill has been passed.

Mr. Bhuput Sing (Bihar and Orissa: Landholders): Sir, I propose that the name of Raja Bahadur G. Krishnamachariar be added to the Select Committee.

Mr. President: The name of Raja Bahadur G. Krishnamachariar is suggested as an addition to the Select Committee.

The Honourable Sir George Schuster: I have no objection to Raja Bahadur G. Krishnamachariar being added to the Select Committee.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): Sir, I find myself in some difficulty in addressing the House at this stage. In the first instance the debate on the motion took place 4½ months ago and some most interesting and important speeches were made which, I am afraid, are lost on the House due to the length of time that has elapsed.

The Honourable Sir George Schuster: Why?

Sir Cowasji Jehangir: Because memories are short. At any rate, Mr. President, you will pardon me and the House will pardon me if I repeat some of the arguments placed before the House 4½ months ago. My Honourable friend Mr. Studd in his very able speech enumerated some of those arguments but it appears to me that the strength of those arguments is not yet realised by the Honourable the Finance Member. Let me remind him of the number of speakers who spoke on the last occasion and of what they said; and if, after having read all their speeches, he has not yet changed his mind, all I can say is, that arguments are of no use in this House. (Laughter.)

The Honourable Sir George Schuster: I have read them all.

Sir Cowasji Jehangir: I am glad he has read them all but I am sure all Honourable Members have not taken the trouble to read all those speeches again. Honourable Members cannot be expected to read speeches made 4½ months ago; at any rate let me give the names of the speakers on the last occasion. Mr. Chetty, the Deputy President, who made an extraordinarily able speech, Mr. Heathcote, Mr. Mody, Kunwar Hajee Ismail Ali Khan, Dr. Ziauddin Ahmad, Mr. Anklesaria, Mr. Jagan Nath Aggarwal, and Sir Hari Singh Gour, opposed the Bill being sent to Select Committee. The motion was supported by Mr. B. Das, and was conditionally supported by Mr. Harbilas Sarda, the condition he imposed being that all pensions payable outside India should be subject to income-tax. He stated that if the Honourable the Finance Member would agree to that, he would vote for the motion. Mr. Amar Nath Dutt also supported it.

Mr. B. Das: Mine was conditional too.

Sir Cowasji Jehangir: I am glad to hear that. The debate today has thrown up Sir Muhammad Yakub. I have to congratulate my Honourable friend the Finance Member on having given an opportunity even to Sir Muhammad Yakub to have a fling at the European community. He has no lack of opportunities of supporting Government and this is only one more. I think and I trust this will be the last opportunity he will have of having a fling at my friends who are opposing this Bill. I do not desire to go into any details as to his speech. He said that there were very few Indians who traded abroad, five or six.

Sir Muhammad Yakub: I said small Indian traders.

Sir Cowasji Jehangir: Just now two Honourable Members have alluded to protests from associations that are only made up of small traders. All I can tell my friend Sir Muhammad Yakub is that when ignorance is bliss it is folly to be wise; and if he would only confine his remarks to matters on which he knew something, we might be able to listen to him with some patience. The other reason which really causes me some difficulty is that during the discussion 4½ months ago my Honourable friend, the Finance Member, gave some assurances which have completely changed the principle of the Bill. The principles of the Bill are twofold; firstly, it makes residence a liability for income-tax and secondly it provides that anybody not domiciled in this country should be exempt from taxation on all incomes derived outside this country except for such part as they desire to bring into this country. That is the principle of the Bill.

The Honourable Sir George Schuster: On a point of order. Is my Honourable friend entitled to give rulings on what constitutes the principle of the Bill or not? I should like to inform the House that I have had the advantage of discussing that particular question of procedure very fully with you, Sir, and discussing what should be the attitude of Government on it. The attitude that Government took up was that they would not regard an amendment to that particular feature of clause 4 as affecting the principle of the Bill in such a way as to force them to take the view that they would not proceed with the Bill. In fact Government said they would accept the recommendations of the Select Committee on the matter and you, Sir, advised me that that would be a correct attitude to take up. I suggest my Honourable friend is not right in saying that we have in the course of the debate agreed to alter the principle of the Bill.

Sir Cowasji Jehangir: In reply to my Honourable friend I may point out that I have every right to express an opinion as to what I think is the principle of the Bill I have every right to express an opinion as to what effect that change of principle will have.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): There appears to be considerable misapprehension on the issue raised. As far as I have understood the Honourable Member who is addressing the House, his object merely is to express his own opinion as to what principles are underlying the Bill. As regards the procedure, that is a different matter altogether. The procedure as stated by the Honourable the Finance Member is correct. If the Select Committee makes alterations in the Bill affecting the principle, the Honourable the Finance Member has agreed that he will not raise any question against any amendments of principle which may be moved at the consideration stage. But that is a different issue altogether. The Honourable Member is giving expression to his own view as to what principles are underlying the Bill as it stands before the House at present and he is perfectly entitled to do so.

Sir Cowasji Jehangir: I thank you, Sir. I said just now I was merely expressing my own opinion which I have every right to do. I have stated what are the two principles underlying this Bill. I have already told the House that the Honourable the Finance Member has agreed to waive one of them. That assurance given by the Honourable the Finance Member has a very far-reaching effect. I propose to deal with that effect straightaway. The Bill as it stands today would exclude from its operations Englishmen resident in India but who are not domiciled in India if they choose not to bring in any of their income derived outside India into this country. If this assurance is carried out and this Bill goes to Select Committee and is so amended, all Englishmen resident in this country have to pay income-tax on all their incomes outside India whether they bring it here or not. But they are not the only people in India who are adversely affected by this assurance given by the Honourable the Finance Member. There are thousands upon thousands of subjects of Indian States living in British India who, due to the provisions of the Bill, did not think it worth while protesting but who now will fall within the provisions of the Bill if the assurance of the Finance Member is carried out. They are a larger number than Englishmen can ever hope to be in India. What about them? Has not this assurance that the Finance Member has given changed the whole aspect of the Bill for these thousands and thousands of people? Just now my Honourable friend the Raja Bahadur has given one instance. He has said that if the subject of an Indian State residing in India owns

[Sir Cowasji Jehangir.]

land in an Indian State, the income derived from that land will not only be subject to land revenue in the Indian State but will be subject to income-tax in India. I ask, Sir, in all seriousness if in order to meet the objection of a small section of the inhabitants of this country the Honourable Member has any right to give an assurance at the last minute which affects the lives and the very existence of thousands of other people who are not represented in this House. I only point this matter out to show that I am under considerable difficulties in discussing a Bill introduced 4½ months ago, if during the debate the Honourable Member of Government chooses to say that he will completely change the principle of the Bill provided the House will only send it to Select Committee. How are we to discuss legislative measures that come up before the House, if during the debate the whole substance of the Bill is changed and the whole aspect of the case is changed by the Honourable Member for Government practically saying that he will accept another Bill instead. He will allow the Select Committee to amend it as they choose, and if by that amendment thousands of others are affected it does not matter,—let them do so even without notice. This Bill went for opinion with these clauses inserted. That was the basis on which these opinions were received. We have not had a chance of having the opinions of the thousands of residents in India who will now come under the Bill. The Europeans are lucky; they have got a strong group in this House, I do not say to look after their own interests, but to voice their opinions. They can state before this House their case and their point of view; but if in order to meet their point of view you change the Bill, you affect thousands of others who are not here to put their point of view before the House. Sir, all I can say is that it is most unfortunate that the Bill should come up 4½ months after it was last discussed, and that during that discussion the main principle of the Bill should be changed, and that it should be brought up when there is a very thin House present. The Honourable the Finance Member may carry the day and may get this Bill sent to Select Committee, but let me warn him of one thing, that when the Select Committee's Report is submitted to this House and if there is a fuller House, he may find that all our labours in the Select Committee are thrown away as a majority may then be here who are against the principle of the Bill. I trust that if the House does send the Bill to Select Committee and if there are more Members who turn up later on, and decide that the principle of the Bill should not be accepted they will not hesitate to throw out the Select Committee's Report.

Now, Sir, the Honourable the Finance Member in his opening remarks 4½ months ago admitted that this Bill completely changes the basis on which income-tax is charged at present in India. It is not an amendment of the Act; it is a revolution in the Act that is proposed. It is wrong to call it an amending Bill; it is a new Act that is proposed and brought before the House, a new basis of taxation. He has admitted it. He has admitted that it has far-reaching effects; he has also admitted that it may be open to many objections. Sir, at present the Act only makes income at the source liable to taxation. Any income derived in India only, the source being in India, is liable to income-tax. At one stroke of the pen my Honourable friend desires to add residence also as a basis of liability. Now this amendment, I make bold to say, will make the income-tax in India more rigorous, more sweeping and more hard in its effects than any other Income-tax Act in any other part of the world including England; and I am prepared to substantiate that statement. My Honourable friend

has informed this House that this Bill is based on the British Act. Mr. President, I by no means profess to be an expert on the Income-tax Acts either in India or in England, but there is one thing I do know and that is that the highest authorities in England, the High Court of England, have said that there is nobody who can claim to know all about the British Income-tax Act. And then to say that this Bill is based on the British principle is a bold assertion to make. As soon as you try to study it, you find very big differences immediately. In England the Act provides that "even an Englishman non-resident in England shall not pay income-tax on the interest or dividend on any securities of a foreign State or a British Possession which are payable in the United Kingdom". In this amending Bill this principle will not apply to Indians with interest or dividends on any securities of a foreign State which are payable in India. Then again "any income arising from securities in any place out of the United Kingdom" is exempted. This Bill makes no exception for Indians in India. Then again, "income arising from stocks, shares or rents in any place out of the United Kingdom" is exempted. The Bill makes no such exception for Indians in India.

The Honourable Sir George Schuster: Would my friend tell us what he is reading from and in what cases those exceptions apply. I think he started his remarks by saying that these exceptions apply to persons who are not resident in the United Kingdom. We are now discussing what taxation is to be imposed on persons who are resident in India, and I suggest that my Honourable friend's quotation has no parallel at all to the subject we are discussing.

1 P.M.

Sir Cowasji Jehangir: I do not think my Honourable friend the Finance Member has quite understood me. What I am trying to point out is that the exceptions which are provided for in the British Income-tax Act are not provided for in the Indian Income-tax Act . . . . .

The Honourable Sir George Schuster: In favour of persons who are not resident in the United Kingdom.

Sir Cowasji Jehangir: Yes, and people who are not resident in India. The analogy is exactly the same. I shall explain it presently.

The Honourable Sir George Schuster: I am asking my friend what relevance that has to the present discussion about the imposition of a tax on persons who are resident in India.

Sir Cowasji Jehangir: If my Honourable friend will have a little patience, I will try and explain myself. Any income from a foreign security, although payable in England, is not liable to income-tax in the case of an Englishman non-resident in England. Under this Bill any interest accruing on a foreign security and payable in India is liable to taxation even if the man is not resident in India. Has my friend followed me?

The Honourable Sir George Schuster: Yes, but does my Honourable friend mean to suggest that the defect in the present Income-tax law is that the interest on rupee loans held by persons non-resident in India is not to be exempted from the payment of Income-tax? Is that the defect in the present law? Is that what he is arguing?

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Sir Cowasji Jehangir: I am afraid I have not yet made myself quite clear. The point is that in England every encouragement is given to raise loans the interest on which is payable in England, and if an Englishman is not resident in England, he is not made to pay the income-tax on the interest of such loans. The basis of source is therefore cut out. In India at present, as the Act stands and as it will remain when amended, wherever the man may be resident, either in England or America or Africa or anywhere else, as long as he is an Indian and his domicile is in India, and if such a loan is raised in India, the source being India, he will have to pay income-tax.

The Honourable Sir George Schuster: I would suggest to my friend that he is not only misleading but wasting the time of the House. The point which he makes is this that if the Argentine Republic, for example, raises a sterling loan in England, and if an Indian invests money in an Argentine Republic sterling loan, the interest on which is payable in London, then the Indian holder of that Argentine Sterling loan will not have to pay English income-tax. That is perfectly correct, and there will be no parallel to it in the Indian income-tax law; but I suggest to my friend that the prospect of the Argentine Republic or Japan or any foreign country coming to India to raise rupee loans to finance themselves is an extremely remote one and that we need not at the moment concern ourselves with the interests of people who might hold those potential loans because the possibility is so very remote.

Sir Cowasji Jehangir: I contend, Sir, that we have every right to concern ourselves with the case of such people, and I want to point out the great difference that the Honourable Member is making between the British income-tax law and the Indian income-tax law by this amendment. My Honourable friend contends that this Bill is based upon the British law, but I say it is not so. There are very big differences; we are going to be taxed in India, while the Englishman in England is not taxed. Am I not, therefore, entitled to point out . . . .

The Honourable Sir George Schuster: What I am pointing out to the Honourable Member is that he is pleading the case of people who are non-resident in India. What we are discussing in this Bill is the question of taxation to be imposed on people who are resident in India. The fact that under the English law certain persons may draw interest from loans payable in London, and if they are non-resident in London they may not be subjected to English income-tax, is not relevant to the present discussion, and I suggest to my friend that by reading those extracts from this book as he has, he is creating an impression, however unintentionally it may be, that differences exist which do not exist in practice . . . . .

Sir Hari Singh Gour: May I ask a question of the Honourable the Finance Member? Is it not a fact that under the English Income-tax Act a person is deemed to have been in residence if he resides for six months? Have you got a similar clause in the Income-tax Act?

The Honourable Sir George Schuster: The question as to what precisely should constitute residence in India is a question which could be discussed in the Select Committee in connection with this particular Bill. The law at present is quite clear on the subject. That is just one of those points which could be discussed in the Select Committee.

Sir Hari Singh Gour: The point, therefore, is that the English law as it stands at present contains words limiting the meaning of the word 'residence' which the Indian law does not contain.

The Honourable Sir George Schuster: That is not the position. There is a certain practice which is applied by the Income-tax authorities at Home, and there is no reason why that practice should not be applied here.

Sir Cowasji Jehangir: Mr. President, I have no intention whatever to mislead the House. At the same time I do not want the House to believe that this Bill is based on the British Act. It is not. If my Honourable friend will agree to that, I will agree to say . . . . .

The Honourable Sir George Schuster: No, Sir, I certainly will not agree. My Honourable friend's point is that after having passed this Bill, if the House passes this Bill, the Indian income-tax law will not be on all points identical with the British Income-tax law. I accept that. The point that I put before the House is that by passing this Bill the House will bring the Indian Income-tax law much nearer to the present British Income-tax law than at present it is.

Sir Cowasji Jehangir: I contest that point. My point is that if this Bill is passed, it will make the Indian Income-tax law much more rigorous, much more sweeping and much more hard in its effects, and in order to substantiate that point I am pointing out that there are certain exceptions in England which you do not give to Indians in the present measure. I will leave it at that.

I am coming now to a much more important point. Mr. President, one of the principles of the British Income-tax Act is to encourage foreign trade and industry, and that principle has made the United Kingdom wealthy. Englishmen are encouraged to leave England and to go to distant parts of the world to start trade and industries and commerce, and they have done so most successfully. This Bill, Mr. President, far from encouraging Indians to start Industries outside India or to trade with other countries, puts a definite handicap on their doing so. In England an Englishman resident in England, who is interested in industry, trade or commerce outside England, is not liable to income-tax on the profits of that industry, trade or commerce that he does not choose to bring into England. Under this Bill every Indian trading in any part of the world outside India will have to pay income-tax in India on the profits of that trade or industry . . . .

Sir Hari Singh Gour: Whether he brings the income into British India or not.

Sir Cowasji Jehangir: Yes.

The Honourable Sir George Schuster: I do not accept my Honourable friend's statement of the English law.

Sir Cowasji Jehangir: I am prepared to show that to my Honourable friend. As I have said . . . . .

Mr. President: Order, order. I should like to ask the Honourable Member how long he is likely to take.

Sir Cowasji Jehangir: I am likely to take another hour most probably.

Mr. President: The House will now adjourn till 2-20 P.M.

The Assembly then adjourned for Lunch till Twenty Minutes Past Two of the Clock

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The Assembly re-assembled after Lunch at Twenty Minutes Past Two of the Clock, Mr. President in the Chair.

Sir Cowasji Jehangir: Mr. President, I was speaking on one of the most important points in connection with the Bill when we adjourned and you will excuse me if I just repeat the last few sentences of what I said. I was contending that there is a big difference between the British Act and what is contemplated under the Bill with regard to residents in England trading outside the country. I contended that they were exempted from income tax on their profits as long as they did not bring those profits into England. I further contended that under the Bill all profits on income made through trade and industry outside India will be liable to income tax, whether the whole of the income is brought into India or not and I was just then interrupted by the Honourable the Finance Member who said that I was not correct in this contention. I maintain that I am correct. I am always open to correction but I would like to see it a little more definite than a mere assertion that on a very important point of this sort I am incorrect. I may state that this is not the first time that this point has been alluded to in this Honourable House and my Honourable friend did not contradict any other speaker. I think Mr. Studd made that point in another way when he talked of a double income-tax. Mr. President, I respectfully contend that this is one of the greatest injustices that can be done to Indians in India. Now take the case of all those small petty traders who have shops in all parts of the world. My Honourable friend from Sind alluded to the great enterprise of the Sindhi shopkeeper, whom you find in the remotest corners of the world. Now, he will have to pay income-tax on all his profits if he happens to be resident in India. Take the Englishman in England, who has organized trade of this sort all over the world: he is exempt from that taxation. He keeps his money in his business in all parts of the world, and he pays no tax. If he brings it into England, a portion of it even, he is taxed. That I contend is a very serious matter for consideration, and I am not at all surprised when my Honourable friends say that they have received hundreds of telegrams protesting against this injustice. Government ought to encourage Indians in their enterprise outside the country. Every country, I presume, desires to see its nationals go outside its own borders for trade and industry. They encourage it. England has done so consistently. Here is an amendment to our Act which ropes in all these poor men. Sir, we have heard a great deal about paying double income-tax. That is perfectly correct. We might argue till we are blue in the face that it is not so, but in certain cases it will be so unless this Bill is amended. A man having business connections in England, and resident in India, will have to pay income-tax in England on his profits, and he will also have to pay income-tax on his profits in India.

The Honourable the Finance Member has explained in his opening speech how he can get out of it. He has tried to make out that the Government of India will benefit. But I think my Honourable friend, Mr. Studd, gave a rather conclusive answer to that argument. He has pointed out that it is not always easy to get that return. It is very well for Government to say, "You shall pay double income-tax but then you can get back at least a portion of what you have paid in England." Sir, it gives some trouble to do so. And why should the Indian be put to that unnecessary trouble when the Englishman is not, in England? I will emphasize that point when I come to the objects that Government have in view in proposing this legislation. Sir, I contend that the English Income-tax Act is, principally and generally, based on residence, and when you go into the exceptions made in the English Income-tax Act, my statement will not need further emphasis. In India, by this proposed legislation you not only make "source" a liability for income-tax but also residence, and I understand from certain authorities whom I have consulted that there are no income-tax Acts in the world, they are aware of, that have a dual source of liability. Now, why should the principles of income-tax be changed at this stage?

That brings us to the objects my Honourable friend in particular has in view. He says he desires to stop the flight of capital from this country. When he moved that the Bill be sent to a Select Committee 4½ months ago there may have been some justification for this contention, but now I can see none. I think on the last occasion my Honourable friend, Mr. Heathcote, very pertinently pointed out that he did not believe in the contention that the income-tax relief that exists under the present Act is one of the reasons for Indians and Englishmen sending their money out of the country. If my Honourable friend was correct then, he is doubly correct today. There are other reasons, and my Honourable friend, the Finance Member, will have to exercise his mind a little further if he desires to really ascertain why money is being sent out of the country. It is sent out not only to save income tax; that may be a reason, a very small reason, but does he not realize that there are many business concerns in India on whom it is incumbent to invest money in foreign parts? I will give you the instance of Insurance Companies. These Companies, on account of the methods of their business, have to invest in foreign securities, in order to do business in foreign countries. All that income in foreign countries will now be liable to Indian income-tax. But the English Companies which do business in India are not liable to the English income-tax on their profits in India as long as they do not take those profits to England. You are thus, I won't say deliberately but I believe unconsciously, doing a considerable damage to the growth of indigenous insurance companies in India by this legislation. When I interrupted my Honourable friends 4½ months ago on this point, he said that I should use my ingenuity in Select Committee to remedy this defect. I think my Honourable friend ought not to rely on the ingenuity of Honourable Members on this side of the House to cure defects in the Bill, for, he may find that they have not the ingenuity to do so. I would suggest that that ingenuity ought to have been exercised when the Bill was being drafted; and to urge, on the mere plea that ingenuity will have to be exercised both on the side of Government and the Opposition to cure this Bill of its many defects, that this Bill should be sent to a Select Committee is the poorest argument I have ever heard put forward before a Legislative Assembly in order to send a Bill to a Select Committee.

[Sir Cowasji Jehangir.]

The next object my Honourable friend has in view is to earn a little more revenue. In his opening remarks he has been perfectly candid and told the House that he has no figures on which to base any estimate as to the increased revenue. He says there will be some revenue. Therefore, one would be legitimately allowed to argue that the main basis on which he has introduced this Bill is to stop the flow of capital and that revenue is merely incidental. Then, if it can be shown that this Bill is not going to stop the flow of capital, if ever there was a flow of capital out of this country, I think it is time the Honourable Member and Government considered whether it is not due to this Honourable House that this Bill should be withdrawn. ("Hear, hear" from Non-Official Benches.) He has talked of the flow of capital, regardless of the moneys that have to be sent out of the country for trade purposes. Who are these people who are sending money out of the country? I am not in the secrets, as my Honourable friend most probably is, of some very distinguished gentlemen who live in India, the Indian Princes. How is he going to stop the flow of wealth from this country by Indian States? And if it does go, is he going to derive any benefits to the revenues of British India, as they are not subject to Indian income-tax? I contend, Sir, that this argument of the flow of capital is not a sound one; and if further examined, it will be found that if there has been a flow of capital it has been not from British India but from other parts of India which my Honourable friend cannot touch and cannot stop. If there has been a flow of capital for business purposes which brings more business to those who live in India, then to tax it is illegitimate; it is something exceptional, it is something that England does not do herself. So far as the flow of capital is concerned, it is merely a bogey. As far as the revenue is concerned, there are no figures which will convince us that any substantial income is going to be brought into the Treasury.

Then, my Honourable friend made very light of administrative difficulties. I presume that evasion of the income-tax can be called an administrative difficulty. He did not in his speech tell us what machinery he is going to set up to prevent the evasion of income-tax on incomes outside India. I would like very much to be instructed as to what machinery my Honourable friend has in view; and, if it is not possible to invent the machinery does he believe that he is going to get income-tax on all incomes outside India? As it is, with the present tax as it stands, it is the honest man who pays and the dishonest man who laughs at the income-tax authorities. Every time you put up the income-tax, we feel it is a question of diminishing returns. I admit that there is a great deal on this point of evasion with regard to the income-tax as it stands. Every time you put it up, you do not affect the man that evades it, you only increase the burden on the honest man who pays it and you are going to make this evasion much more possible with the question of incomes outside India. It will be the honest man who will pay. Whether there are many such persons, I am not prepared to state. But few or many as they may be, you are simply making them pay, and those who are prepared to evade this tax will do so with impunity and you will have no method of checking it. I am open to correction if my Honourable friend will explain the method that he is going to adopt to prevent evasion. Although this was pointedly brought to the attention of Government in the many reports that they have received from Government officials, my Honourable friend's answer was that it was best to waive aside all these administrative difficulties with a wave of the hand.

When this Bill was introduced, Honourable Members, I feel certain, have not forgotten that Government was desirous of putting it on the Statute-book practically immediately. I candidly and willingly admit it did not require very much persuasion to convince my Honourable friend that it should be circulated for opinion and we thanked him for having done so. The result is comic. Most Provincial Governments have condemned the Bill. Some officers of Government have written reports which are criticisms worth reading. It has been said—and I repeat it—that few measures of Government have been so strongly and cogently criticised by their own officers, and by Provincial Governments, as this one. I will not lay stress on this point as some of my friends did 4½ months ago as to why Government should on this particular occasion neglect the views of their own officers and of Provincial Governments. I am prepared to admit that these views were expressed on a Bill that is for all practical purposes not before the House today due to the assurance given by my Honourable friend. You would have to cut out pages out of these criticisms and most probably replace them by other criticisms because the whole aspect of the Bill has been changed. I have heard it said that on account of the assurance given by the Honourable Member this Bill ought to be recirculated for opinion. I contend that there is a good deal in that argument but I am not going to bring it forward at this stage.

I do respectfully draw the attention of the whole of the Government Benches to the opinions given by their own officers before they try to force this measure down the throats of this Honourable House. I have shown, as many of my Honourable friends have also done, that there is very little left of the objects which Government had in bringing this measure before the House. We shall anxiously await the reply when my Honourable friend comes to show that the objects are still in existence, that there is something in them still; also how he hopes to stop the supposed flow of wealth from this country, how he expects to get all the revenue that ought to come in. Above all we expect to have clear figures from him as to how much revenue we are to expect. He can only justify the revolutionary change in the present Income-tax Act, if he can conclusively show us that the revenue that we will get will be worth having. If he cannot show that, then I contend he has no arguments for bringing before this House a Bill that changes the whole principle of our Act.

I had occasion to refer to the question of litigation that may follow if this Bill is passed into an Act. Income-tax litigation, I understand, is not infrequent and I am assured by some leading lawyers that this inclusion of residence along with source as liability for taxation will add considerably to litigation in this country. Difficulties again for everybody, both Government and the people, and for what? For an amount of revenue that we do not know, for a tax that can be easily evaded, for a purpose that does not exist, we are to be saddled with legislation which is sure to lead to litigation, and which is to upset the present standards of taxation with regard to income-tax, and, I again repeat, make the income-tax more sweeping, more rigorous than in any part of the world.

I have already occupied a considerable amount of time and considering that we have a very thin House, I do respectfully urge upon Government to consider whether it is the right thing to place this motion before the House when so many are away. It is not the fault of Government, I admit. They have to bring in Government business when they can. It may be our

[Sir Cowasji Jehangir.]

own fault that we are not all here to vote. I candidly admit that, but the consequences are the same. Although you send the Bill to Select Committee, it is very likely that a majority of this House will be against the principle. The effect will be that when it comes back it may be thrown out.

I would sincerely appeal to Government, if they can see their way to do so, to postpone consideration of this matter for just a week. Then you will know the real sense of the House by the vote. Of course, if it does not suit the convenience of Government to do so, we are here to do our duty. We shall go into the lobby against Government. But I should respectfully warn Government that they must not blame us if we practically vote against the principle of the Bill when it comes before us for the third time, with the report of the Select Committee.

Mr. Nabakumar Sing Dudhoria (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I rise to support the motion of the Honourable the Finance Member for a reference of the Income-tax Amendment Bill to a Select Committee. Sir, the two objects for which the Bill has been introduced are (1) to augment our revenues, (2) to arrest the flight of capital out of the country. If we feel that these two objects are likely to be achieved in any way by the Bill, we should accept its principle outright, and lend our support to its passage to a Select Committee. Honourable Members who spoke against its reference to the Select Committee waxed themselves eloquent, either on the imperfections of the Bill or on why it did not follow the English ideals *in toto*. But there was no one who laid stress upon the fact that the objects as set forth in the Bill would not be fulfilled no matter to what extent or quantity.

The Government, as we all know, are in a most difficult financial situation. They need money for carrying on the normal administration. The Bill aims at opening up a new source from which something must be obtained, and although the amount expected, may not come up to their expectations, it will be unwisdom on our part to treat such a measure with light-heartedness. We must now set our heart upon anything that will bring grist to our mill. If we do not tap that possible source proposed by the Government, mind you, Sir, we shall have to fill up the deficiency by fresh taxation upon ourselves.

I was feeling rather amused when some speakers quoted the opinions of Local Governments and European Chambers of Commerce in support of their opposition to the motion under discussion. There was no wonder that Local Governments, whose policy is controlled sometimes by Europeans, would oppose the Bill, because the Bill aims at touching their purse. The Chambers of Commerce, it is also no matter for surprise to us, should send up opinions in a similar strain, because they are organisations of European merchants, whose purpose it is to escape the proposed tax.

Mr. Arthur Moore: I wish to point out to the Honourable Member that the Bill, when it was referred to the Chambers of Commerce, was in its present form and is not aimed at Europeans as I understand it. It is only in the revised suggestion that Europeans will be affected by the Bill. As the Bill stands, Europeans are exempt.

Mr. Nabakumar Sing Dudhoria: There is undoubtedly so much opposition from these quarters because a large class of Europeans who have

hitherto avoided the income-tax in British India will be subject to that taxation from now if the Bill is passed.

I would again ask the House to consider carefully whether the objects, likely to be obtained by the Bill, will be really obtained or not. If they feel they are quite likely, they ought to accord them their whole-hearted support to the motion.

Sir, I own there are some obvious defects in the drafting of the Bill, but they can be, and I am sure they will be, smoothed down in the Select Committee. The Select Committee should see that discriminations, which have formed the subject-matter of criticism, are entirely removed and that people who are paid heir pay or pension, from Indian revenues, are to be taxed for their income at the source.

The question of double taxation is haunting the brains of many of the Honourable Members, evidently interested in investment of capital abroad, but they should not bother themselves with that question. I should think their grievance is more or less imaginary, because people who are likely to be affected by double taxation know well how to get their remedy themselves. With these words I support the motion.

Mr. E. F. Sykes (Bombay: European): Sir, I hope the House will have patience with me while I am speaking on a subject of which I have no expert knowledge. If no one were to speak without expert knowledge, the proceedings of this House would be contained in a few very thin volumes; and a natural extension of this principle would prevent Members from voting as well as speaking. It is obviously the duty of Members to vote. I do not know what the experience of other Members is, but early in my career in this House I once abstained from taking part in a division. On that occasion my feelings were such that I determined never more to abstain from voting, and I have consistently voted on any subject that came up before the House whatever the extent of my knowledge might be. In any case I consider it the duty of a Member of this House to form an opinion based on the balance of advantage on one side or the other on any question that may be debated in this House, and equally it is the duty of a Member to speak when he considers that to do so may enable the House to consider more fully the matter under consideration. I should like to say at once that I am opposed to this motion for the reference of the Bill to a Select Committee. To agree to this motion would be to agree to the principle of this Bill. Now, Sir, there appears to be some difficulty as to what the principle of the Bill is, and you yourself have ruled that Members are entitled to their own opinion as to the principle of the Bill. Apparently the Finance Member is willing to allow for the purposes of the Select Committee that the Bill has no principles and may be altered in Select Committee. Now, Sir, I wish to express no opinion as to the advantage of this procedure as a regular arrangement. The fact remains that under the present procedure of this House the result of the debate at this stage is to give or withhold the assent of the House to the principle of the Bill. In exercise of the privilege you have been good enough to admit I wish to form my own opinion as to the principle of the Bill, and I do not find it very difficult. In the first paragraph of the Statement of Objects and Reasons we find this:

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"Under the Indian Income-tax Act of 1922 (Act XI of 1922), liability to tax . . . . depends mainly on the 'origin' of the income . . . . . and the place where it is received."

[Mr. E. F. Sykes.]

Paragraph 4 says:

"It is therefore considered desirable to amend the law .... so as to make residence the main basis of liability....."

That is to say, the principle of the Bill is to reverse the principle of Act XI of 1922. I submit, Sir, that it is not reasonable to ask the House to have anything to do with a Bill so unfortunately named. It may be that the substantive Act is based on a wrong principle; it may be that its amendment is an urgent matter. Obviously in that case it is the business of the Government to introduce a fresh Bill covering the whole field of income-tax law. And surely here is an opportunity for the Honourable the Finance Member to add to the other services he has rendered to this country. If he were to introduce a new Income-tax Bill which could be understood by the ordinary man and not merely by the income-tax specialists, his name would outlive that of all other Finance Members. Whether the House would accept the reversal of the main principle of the Bill as an integral part of the new Bill is a question the House will then have to decide; but at least it will be a legitimate occasion for debate.

But I find even more important objections to the Bill. It has not been possible for the Finance Member to estimate the net revenue likely to result from this Bill. The prospects of any large increase are not very bright. There is however no doubt that there will be considerable costs. It is not therefore at the moment possible to say whether the net income will be an increase or a decrease by the action of the Bill if passed. If there is a decrease the Bill will stand condemned; if there is an increase the Bill is not the less objectionable. It is just over two months since we had before us an amended Finance Bill. With the rest of the group I belong to, I supported this Bill which added largely to all existing taxation, income-tax included. One of the main reasons for which I supported the Finance Bill,—and I think the same motive affected the other Members of this group,—was that it was not possible within any reasonable period for the retrenchments that were then under consideration to enable the expenditure to be reduced to a parity with revenue; and therefore as a temporary measure up to the end of the financial year 1932-33 we accepted those proposals. But I do not think any one who was present in the debates of the last session would deny that the concensus of opinion was that this was the limit to which we were able to go. In fact considerable sections of the House decided that it was beyond the limit to which they were prepared to go. However, speaking for myself and obviously, having voted for the Bill in all its stages, it was not beyond the limit to which I and the rest of the group were prepared to go. But this Bill is a Bill either to reduce revenue or to introduce additional taxation, and on that point alone I think the House will be justified in rejecting this motion. Government have now had ample leisure to consider the possibilities of retrenchment; and my view which I think will be held by a greater part of the House is that any further differences between revenue and expenditure must now be met by further retrenchment. You, Sir, would probably hold me irrelevant if at this stage I entered into any details of the possibilities of further retrenchment in addition to what has already been made. There are of course a number of proposals made by the committees that have not yet been acted upon. But my own opinion is that even beyond the proposals made by the committees it is possible for Government to find further sources of retrenchment. We have also heard from a very high authority that there is to be no further taxation and yet, Sir, at the very beginning of the session, this Bill, in spite of the strong opposition that was made to it, is again brought before us and we are asked to accept the principle of it. I think, Sir, I need say no more. I oppose this motion.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, when this Bill came before the Assembly last time at Simla I did not take any part in the discussion as I wanted to balance the benefits and the advantages as well as the disadvantages of this new taxation. I find that last time the reasons given by the Opposition were quite sufficient to convince the Government Benches of the futility of this taxation. This time the Bill has again been introduced, and I have heard such cogent arguments today that I am convinced that this Bill also stands condemned in itself not only outside this House, but as my friend Sir Muhammad Yakub pointed out in his very lucid speech this morning, it is being opposed in all corners of this House as well. Still I find that measures like this are placed by the Government before the House supported by those who are always for the Government on such motions. I do not understand what is the occasion for bringing forward such a measure as this; where is the justification, where is the need, for introducing an amendment in the Bill which has been so sharply criticised throughout the whole length and breadth of India. We know the volume of opposition that we had not only in this House but also from the country in general, from the Local Governments, from members of Government itself, from Government officials as well as from non-officials, from trades people, from members of the different Chambers of Commerce, but we find that still the Government is persistent in going forward with this Bill which is not only technically and legally defective but absolutely detrimental to the trading and other interests of the country. My friend Sir Cowasji Jehangir has laid threadbare the different defects of the Bill. He has pointed out that the Honourable the Finance Member himself is not sure what will be the outcome or profit of this Bill; still I feel that the Government Benches are bent upon dividing the House on this motion.

Sir, it has been proved conclusively today that the flow of capital is not the reason for bringing forward this Bill. There is some policy underlying the whole thing which perhaps the Government Benches think it is better not to state before the House and that it should remain concealed in the archives of the Government. I know, Sir, that it has also been proved that it will not be a paying proposition, but it will mean an additional burden on the whole of the Indian public, whether rich or poor, whether capitalist or non-capitalist, and I feel that India is sure to be crushed under the burden of such a heavy taxation. Government ought to be alive by now to the fact that this is not an opportune moment for flinging such Bills as this at the heads of the people when the country itself is in every way depressed and the people are struck financially and otherwise.

Mr. Arthur Moore: Sir, listening to some of the speeches today, it seemed to me that in certain quarters of the House there is evidence of a complete misconception as to the effect of the Bill as it stands upon

[Mr. Arthur Moore.]

the European community. Mr. Dudhoria appeared to think that this Bill, when it was circulated, was disapproved of by European Chambers, and that the Provincial Governments being, as he supposed, under the influence of European Chambers, also disapproved of this Bill because in some way it penalised Europeans. Well, Sir, nothing could be more fantastic or opposed to the truth. This Bill creates a privilege for Europeans . . . .

Mr. Gaya Prasad Singh: Then why do you oppose it?

Mr. Arthur Moore: If the Honourable Member will listen to me I will give him the reasons why we oppose it. If Honourable Members will turn to clause 4, sub-clause (*b*), they will find that as regards taxing foreign investments the clause runs as follows:—"which accrue or arise to such person without British India during that year if he is resident and domiciled in British India in that year". That is to say, you have to be both resident and domiciled to come within the mischief of this Bill. Now, Sir, my friend Sir Cowasji Jehangir in a very admirable speech, the substance of which I entirely agreed with, did, I think, add to this confusion, because at one period of this speech he suggested that the Bill in its original form,—and it is still in its original form—was opposed to European interests, but that we having representation in this House had been able to look after our interests and procure some desirable change which was promised when the Bill went to the Select Committee, whereas residents in Indian States had not succeeded in securing such benefit. Well, again that is not in accordance with facts. The facts are that the change which we are promised in the Select Committee will make this Bill applicable to the European community and also to residents from the Indian States. I think my friend will agree with me.

Sir Cowasji Jehangir: Quite right.

Mr. Arthur Moore: And therefore this is a complete misconception. If my friend Mr. Dudhoria were to take the trouble to read the opinions expressed when the Bill was circulated he would find that there is no basis whatever for his suggestion. As a matter of fact, the bulk of the opposition to this Bill comes from Indian quarters, but there is indeed every variety of opposition. There is the expert opposition of Income-tax Commissioners. We had in the Simla session very striking passages read out to us upon that subject. And again, if my friend Sir Muhammad Yakub were to read those opinions, he, also, would find that there are associations of Indian traders and associations of Chetties from the South of India and so on which must include a great many men who are in a small way of business. My friend Mr. Lalchand Navalrai showed us that there are a great many small Sindhi traders in every part of the world, who are all opposed to this Bill. Therefore the opposition to this Bill as reflected in that volume of opinions which was circulated to us is not only not of the character that Mr. Dudhoria supposed, but the very basis that he ascribes to it is non-existent, because the Bill which was sent out for consideration and which was before these associations and Chambers and Provincial Governments and other bodies did not in any way penalise the European community, but on the contrary for the first time, as far as I know, created for them a privileged position. It is quite true—and that is the argument used by the Honourable the

Finance Member for the Bill—that under the English Income-tax Act an Indian in England would have this privileged position, that is to say, that a person who is resident but not domiciled in England is not taxed in England on his investments abroad. In England under the law that privilege exists. Hitherto in India no such privilege has existed. The European community has had no privilege. Now, Sir, when the Bill was first produced in the melancholy month of March a year ago and we saw this astonishing provision, we were naturally deeply concerned regarding it, and our opposition to the Bill began from the day we saw it and therefore could certainly not then have been based upon the fact that it damages our interests in any financial sense, because so far from damaging our financial interests it confers upon us a privilege. What did concern us very much was that at the present time when we are asking through the Round Table Conference for complete equality with our Indian fellow-subjects in all commercial matters we should have a privilege unloaded on us. Obviously that is going to damage our case. (Laughter from the Nationalist Benches.) My friend I think sees the point. Obviously it is going to damage us very much in our Round Table Conference discussions if we have foisted on us by Government a privilege for which we had never asked. Therefore, as I say, we opposed this Bill from the beginning and when it contained a privilege in our favour.

Now, Sir, when the Honourable the Finance Member found that there was strong opposition to the Bill and that in particular there was objection to this clause—that a great many Indians naturally objected to it because they said it conferred a privilege on the Europeans, and the Europeans themselves also were not at all grateful and said that they did not want this privilege—he attempted to meet the wishes of the House and so he has—here I agree with Sir Cowasji Jehangir—he has considerably altered the principle of the Bill and given an undertaking that in the Select Committee Government are willing to agree that this privilege to those who are resident but not domiciled shall be done away with. That is the situation. Therefore really we are discussing a Bill which is not before us. We are discussing a Bill in which clause 4, sub-clause (*b*) will be worded differently. But our opposition to the Bill is not mitigated now that we find that instead of conferring a privilege upon us it inflicts a loss; nor has the opposition of Indians in the business community been—as I understand from Sir Cowasji Jehangir and others—in any way diminished whatsoever.

When the Bill first came before us and was published, I personally did consider very much where one's duty lay in regard to it, because I do not think that in any way it is likely to affect me except on the point raised—and it is a good point—by my Honourable friend Mr. Studd and others, that inevitably there will be delays in recovering income-tax in the case of people who have investments in England, and are not to be subjected to double taxation. But in regard to foreign investments the Bill does not concern me in the least, and I have tried to look at it in an impartial way.

While there is a whole battery of arguments against the Bill, I should like to put briefly three of the principal arguments that have weighed strongly in my own case. They are not, I am bound to say, new arguments; we have heard them before. But they make such a strong appeal to me that I would like with your permission briefly to recapitulate them. The first point is the very very strong one, that you have no means

[Mr. Arthur Moore.]

whatever of operating this Bill when you are face to face with the desire to evade. You are entirely dependent upon honesty. It is an absolute shot in the dark and it is really a catch penny Bill, for the Honourable the Finance Member has told us himself that he has not the slightest idea of what it will bring in; and for what it does bring in he will be entirely dependent upon those people who make an absolutely correct return. People who are sufficiently unscrupulous not to do so cannot in any way, as far as I understand, be dealt with. That seems to me a very damaging aspect of any Bill—that you are penalising the honest and have no means of dealing with the dishonest. That is an objection of universal application. My second one appeals more, I think, to my community, but I put it to the House on grounds of general fairness. There are in this country an enormous number of men—young men and middle-aged men—who have nothing whatever to do with business, who are brought out here to serve India in the Army or it may be in the civil service, but I am thinking at the moment particularly of the Army, and particularly of the officers in the British regiments. We all know that it is practically necessary for an officer in a British regiment to have some private means, and by and large there are a great many people who are serving in India, who could not do so actually as married men on their pay—again I refer to the officers of the British Army in India, not the Indian Army. Those people have no idea that at present this sword is hanging over their necks, nor have they any conception of the fact that a Bill is before this House the result of which would be that money which has been in their family and has come to them, money which has never been earned in India and has had no connection with India but which very often enables them to provide in England for the education of their children while they themselves are in India, and is therefore money that is never brought into India—that such money is as I understand it, by this Bill to be made liable to income-tax. I think it is a monstrous suggestion.

The last point is the point which was made so effectively by Sir Cowasji Jehangir, and that is that we are attempting to rush through something which the inhabitants of the Indian States, of the whole of India outside British India, know nothing about. They have no conception of what we are doing. I do not myself for a moment believe that the Marwari community has thoroughly understood what this Bill is going to do to them. As we all know nearly all the members of the Marwari community, who play such an important part in the commercial life of India, have actually got real estate in an Indian State and under this Bill all that real estate in Indian States will be subjected to income-tax in British India. This is a time when we are proposing to bring the Indian Sates right in to the political life of India; that on the eve of that we should rush through this legislation which damages very severely the financial interests of the subjects of the Indian States is a most unhappy and unreasonable proposal, and therefore, I would appeal to you that at this time of the afternoon in the month of Ramzan, when Members are fasting and it is difficult to get a full House we should not close this debate, but be allowed to carry it on to another day, and not take our division this afternoon. Thus it would be possible to get the real sense of the House upon this matter, because I may say that we are absolutely convinced that we have got

a majority of this House against this Bill, even without counting the hearts of Members upon the back Benches who we know are with us, although their legs may carry them into the lobby against us. We are prepared to face their opposition if we conduct the battle under normal conditions.

Mr. B. Das: Remember this on Monday also.

Sir Muhammad Yakub: What about the adjournment after 4, when you wanted the debate in spite of the protest of the Mussalman Members. (*Mr. Arthur Moore*: "No, no".) The Mussalman Members are all present here. It is only half past three.

Mr. Arthur Moore: When in September the whole matter was, very much to our temporary relief, postponed till January, it did not occur to any of us that it would come along right at the beginning of the session when we would have a thin House, and in this month of Ramzan when in spite of what Sir Muhammad Yakub said, our Muhammadan friends are not with us.

Sir Muhammad Yakub: They are in the lobby.

Mr. Arthur Moore: Therefore I would ask whether it would not be possible to carry this debate over to another day before we approach our final decision on this question of a Select Committee, which does raise this very difficult issue of the principle of the Bill. We do not wish in any way to commit ourselves to-day to accepting the principle of the Bill.

Bhai Parma Nand (Ambala Division: Non-Muhammadan): When discussing any proposal for taxation, we should clearly understand that the Government can tax only those who enjoy the privileges and protection afforded by the Government. When we know that there is a class of Indians who have gone out of India and who do not enjoy any of the privileges under the British Government, I do not think Government are justified in imposing a tax on the incomes of those people. I have been to some of the British colonies, to East Africa, South Africa, and even to some of the British colonies in South America. I have met hundreds of Indians everywhere, who when they left India, were quite penniless. Most of them went as indentured emigrants. They went as labourers or worse, as semi-slaves, and after working there for some years, they made money and were then living in affluent circumstances. Suppose they come back to this country. I do not think the British Government have any right to tax the income which they were able to save there, on account of their simple and good habits and hard work.

Then there is another class of people who had gone out. They were specially noted for their spirit of enterprise. I happened to know some of this class of people. They did not possess anything, when they left India. They took no capital out of India along with them. They were driven out of the country for the purpose of getting their bread. They too made a little money after undergoing many troubles and hardships. If you are going to tax the small sums which they send to their relations or friends, you are simply going to check the spirit of enterprise with which some people are gifted by nature. Having experience of these two classes of people, I really do not know how you can make out a plea that there

[Bhai Parma Nand.]

is a large export of capital from India, outside. I admit there may be some few rich men who might be inclined to invest their capital abroad. But it is the slack commercial morality of our people here and the industrial backwardness of our country which make these people invest their capital in other countries. They send their capital out where it is better utilized. Even in that case, when the Government have not provided for and encouraged industries and when there is a lack of commercial prosperity in the country, the Government have no right to tax the income accruing from that capital for the use of which they have afforded no facilities. Let me turn to another side of the question. This Bill has been circulated, and high Government officials, whose views should be considered as authoritative on this subject, have expressed their opinions about it. I will first read from the letter addressed by the Commissioner of the Rawalpindi Division to the Punjab Government. He is opposed to this Bill, and says:

"My second objection to the Bill is that it is extremely difficult to ascertain income accruing or arising outside British India if, as is often the case, there is any attempt to conceal it. At present only the profits and gains of business are taxable, and that only when they are actually received or brought into British India. Even so, evasion is ridiculously easy and most difficult to detect. Owing to the number of Punjabis doing business abroad and the proximity of many Indian States, such cases are common in the Punjab, and as Commissioner of Income-tax I had to deal with many of them. In hardly any there was any security that the profits and gains were correctly assessed, and in most there was good reason to suspect evasion, though it was rarely possible to prove."

"It is now proposed" he goes on "to make assessable every kind of income accruing or arising outside British India. The difficulties of correct assessment will therefore be greatly increased, and the result will probably be wholesale evasion and much penalising of the honest at the expense of the dishonest. I consider this objection outweighs the two advantages claimed for the Bill (an increase of revenue and a check on the out-flow of capital), for the Bill will either increase dishonesty or generate a sense of injustice."

Again, Sir, the Honourable Judges of the Lahore High Court, the Financial Commissioners, the Legal Remembrancer, the Commissioner of Lahore, the Punjab Trades Association and the Punjab Chamber of Commerce were all consulted and the opinion of all these different bodies is summed up in this one paragraph which with your permission I will read to the Honourable House:

"The declared objects of the Bill are to discourage the export of capital from British India and to encourage the investment of capital in India. The Governor-in Council considers that though the Bill may have some effect in the direction desired there are more potent reasons than the desire to avoid income-tax which are tending to send Indian capital abroad for investment."

The Governor in Council outweighs this argument regarding the export of capital to foreign countries. He says:

"As long as the economic and political prospects in India are as uncertain as they are to-day, capital will tend to take refuge abroad, and the fact that the capital invested abroad will become under the Bill liable to Indian income-tax, will have little effect in arresting this tendency. It would be impossible to arrest that tendency of the export of Indian capital outside by this proposed tax. Moreover, the supply of capital for investment in India is limited not so much by the export of capital from India as by the fact that capital in this country is hoarded. This habit of hoarding is partly traditional and partly due to a not unfounded distrust of Indian commercial morality and of the conduct of joint stock companies and Indian banks. An improvement in these directions is the real check both to foreign investments and to hoarding."

Sir, I have so far been quoting opinions from the Punjab. I will now refer to the opinion that comes from the South. The Secretary of the South Indian Chamber of Commerce says:

"In the first place the Government have not indicated in any manner that the flight of capital from India has taken place in order to take advantage of the loose provisions of the present Act for assessment of outside incomes. As far as South India is concerned, the outward movement of Indian capital has been in the shape of business chiefly of Nattukottai Chettiyars and Tamil Mahomedans in such places as the Federated Malay States, the Straits Settlements, French Cochin-China and so on. That is due to the traditional enterprising spirit of these people rather than to any desire to escape the payment of tax in British India. Their business has been carried on in those places for not less than a century now, and there is no evidence of money leaving this country in recent years. Rather there is some evidence the other way to indicate that business activities in other countries have been restricted or altogether stopped, and the capital brought over to India." Further it is added: "It will be found that the Indian Taxation Enquiry Committee did examine this aspect of the question, and considering the administrative difficulties and the comparatively small loss of revenue on this head, decided to reject the proposal to tax outside income."

Sir, I have given these quotations from opinions as expressed in the Punjab and in the South simply to show that the plea, that capital is exported from India on any appreciable scale, is untounded. There is no substance in the argument, and on that ground I beg to submit that we have no right to tax the incomes that are earned abroad.

Besides this, there is one other aspect of the Bill to which I would like to draw the attention of the Honourable Members, and that refers particularly to the case of the Hindus. The Bill goes to disrupt and even to destroy the Hindu joint family system. Sub-clause (*b*) of clause 5 runs thus:

"(*b*) a Hindu undivided family, company, firm or other association of individuals is deemed to be resident in British India unless the central control and management of its affairs is situated wholly without British India."

Now, Sir, take the case of an old father or mother who have got two or three sons. The sons have gone abroad, say, to East Africa or to any other British colony. They happen to make a little money out there. Their father or mother is at home, and is not doing any work and is dependent upon his sons. The income of these four or five members of the family will be considered as the income of the old manager of the House and naturally the whole amount will be liable to be assessed. It comes to this, then, that if the sons desire to become free from this tax, they should break up their little happy family and be treated as separate individuals. This would be a very severe hit at the system of the Hindu joint family. We do not want that in order that a little money may come into the coffers of the Indian Government, our family system should be brought into disruption. Again, Sir, in clause 4B(*a*) "a Hindu undivided family is deemed to have the domicile of its manager". To continue the example I have just now given, the sons are working outside this country and making money for themselves for the maintenance of their family and because the old father has become the master manager, the whole property is supposed to be his and is consequently taxed. Thus, Sir, my last argument against this Bill is that it effects very badly the Hindu joint family system and we as Hindus should oppose it at every step.

In conclusion I have to make this submission that this is a very important measure and I would request the Honourable House not to decide it in a hurry. The Honourable Member who spoke before me has made

[Bhai Parma Nand.]

an appeal to the Honourable the Finance Member that as this was a very serious matter, it should not be decided in a hurry and it should be postponed for further consideration. I join that appeal and I hope that the Honourable the Finance Member will listen to it and have the consideration of this Bill postponed to some future day.

Dr. F. X. DeSouza (Nominated Non-Official): I move, Sir, that the question be now put.

Several Honourable Members: "No, no."

Mr. President: I think there has been a fair debate and I accept the closure.

The question is:

"That the question be now put".

The Assembly divided:

AYES—39.

Abdul Qaiyum, Nawab Sir Sahibzada.
Acott, Mr. A. S. V.
Allah Baksh Khan Tiwana, Khan Bahadur Malik.
Allison, Mr. F. W.
Anklesaria, Mr. N. N.
Azizuddin Ahmad Bilgrami. Qazi.
Bajpai, Mr. R. S.
Banerji, Mr. Rajnarayan.
Bhore, The Honourable Sir Joseph.
Clow, Mr. A. G.
Cosgrave, Mr. W. A.
Crerar, The Honourable Sir James.
Dalal, Dr. R. D.
DeSouza, Dr. F. X.
French, Mr. J. C.
Graham, Sir Lancelot.
Gwynne, Mr. C. W.
Jawahar Singh, Sardar Bahadur Sardar.
Lal Chand, Hony. Captain Rao Bahadur Chaudhri.
Macqueen, Mr. P.
Mukherjee, Rai Bahadur S. C.
Noyce, Sir Frank.
Parsons, Sir Alan.
Raghubir Singh, Kunwar.
Rainy, The Honourable Sir George.
Rajah, Rao Bahadur M. C.
Rajan Baksh Shah, Khan Bahadur Makhdum Syed.
Rama Rao, Diwan Bahadur U.
Roy, Mr. S. N.
Ryan, Mr. T.
Sahi, Mr. Ram Prashad Narayan.
Santos, Mr. J.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Seaman, Mr. C. K.
Sher Muhammad Khan Gakhar, Captain.
Yakub, Sir Muhammad.
Young, Mr. G. M.
Zulfiqar Ali Khan, Sir.

NOES—40.

Abdul Matin Chaudhury, Mr.
Aggarwal, Mr. Jagan Nath.
Azhar Ali, Mr. Muhammad.
Bhargava, Rai Bahadur Pandit T. N.
Bhuput Sing, Mr.
Fazal Haq Piracha, Shaikh.
Fox, Mr. H. B.
Ghuznavi, Mr. A. H.
Gour, Sir Hari Singh.
Heathcote, Mr. L. V.
Isra, Chaudhri.
Jehangir, Sir Cowasji.
Jog, Mr. S. G.
Krishnamachariar, Raja Bahadur G.
Lahiri Chaudhury, Mr. D. K.
Lalchand Navalrai, Mr.
Miara, Mr. B. N.
Moore, Mr. Arthur.
Morgan, Mr. G.
Mudaliar, Diwan Bahadur A. Ramaswami.
Majumdar, Sardar G. N.
Murtuza Saheb Bahadur, Maulvi Sayyid.
Pandit, Rao Bahadur S. R.
Parma Nand, Bhai.
Puri, Mr. B. R.
Puri, Mr. Goswami M. R.
Ranga Iyer, Mr. C. S.
Rastogi, Mr. Badri Lal.
Reddi, Mr. T. N. Ramakrishna.
Sarda, Diwan Bahadur Harbilas.
Scott, Mr. J. Ramsay.
Singh, Kumar Gupteshwar Prasad.
Singh, Mr. Gaya Prasad.
Sitaramaraju, Mr. B.
Studd, Mr. E.
Suhrawardy, Sir Abdullah.
Sykes, Mr. E. F.
Uppi Saheb Bahadur, Mr.
Wilayatullah, Khan Bahadur H. M.
Ziauddin Ahmad, Dr.

The motion was negatived.

Mr. President: The House will now proceed with the further discussion of the Bill.

Khan Bahadur H. M. Wilayatullah (Central Provinces: Muhammadan): I rise to oppose this Bill. Last March when the Finance Bill was presented to this House, we did not know what the financial situation would be, and as Honourable Members will remember a great deal of it was rejected, and the income-tax portion subsequently certified. At that time we did not have any idea that we should be confronted with another piece of legislation in the shape of the Supplementary Finance Bill. I mean to say that at that time we did not know what our requirements would be, and when the Bill came before us here in the month of November, that was totally rejected and it was also certified by the Viceroy. You may remember that in discussing the various provisions of the income-tax portion of that Bill, I said that frequent changes in the Income-tax Act were undesirable particularly because income-tax was a sort of direct taxation and was very unpopular with the people. We were told that so far as incomes between Rs. 1,000 and 2,000 were concerned, it had not been subject to any tax for many years. The surcharge also came on and the entire taxation was eventually imposed upon the people. In addition to the impositions of last March and the subsequent taxation under the Supplementary Finance Bill, there has been a great deal of retrenchment of expenditure. I think, now it ought not to be necessary to revise again the provisions of the Income-tax Act, in order to levy fresh taxation. In the address of His Excellency the Viceroy we were told that there is a revival of trade. We have been reading in the newspapers that England has been able to pay her instalment of war debt without borrowing. That goes to show that there has been a revival there also, and perhaps financially India is not so poor to-day as it was some time ago.

This Bill has had a very unfortunate history. In its original shape as it came before us and as it is now I feel there has been no change. There was an invidious distinction made in it based upon residence and domicile. On that account it was much opposed, but though the objectionable parts have been amended and the Bill softened down considerably yet, there is a great deal of objection to this Bill, the main reason being that direct taxation, especially in the shape of income-tax, has always been very unpopular and people resent it. Last year the rates of income-tax were revised and the limit of taxable income was lowered from Rs. 2,000 to Rs. 1,000. Then there was a surcharge and the rates were further revised. Now, we are again confronted with this new Bill, in which foreign investments also will come under taxation. A considerable amount of opposition to this Bill was due to the fact that it attempted to make an undesirable distinction between the Indians and the Europeans. Even now it is being pointed out that pensions drawn in England are not liable to income-tax while pensions drawn in Indian States are. If you will enquire from the Income-tax Department, you will be told that there is nothing in law to sanction it. Perhaps this is due to the practice which has been followed hitherto. I do not see any reason why people who draw their pensions in Indian states, and those who draw them in England, ought to be treated differently. They should be treated alike. Unless and until we put them on the same footing and treat them all alike, I am sure that it is undesirable that these changes should be made in the income-tax rates, or in the operation of the Income-tax Act so frequently within the course of one year. For these reasons, I oppose the Bill.

Mr. B. G. Jog (Berar Representative): The consideration of this Bill has certainly got a long lease of life by the manœuvring tactics which were supposed to have been secretly carried on in the House and which were done quite openly, as every body knows. The object of the House apparently was that there should be a further discussion of the Bill and the House should not come to any hasty conclusions on the Bill. So far as the Statement of Objects and Reasons to this Bill goes, I am proud to say that it is one of the patriotic measures introduced into this House by the Honourable the Finance Member. I do not know what is underlying the Statement of Objects and Reasons, but the ostensible reasons given are to prevent the flight of capital out of India and to add to the Indian revenues. These two objects apparently are patriotic, and whenever this side comes into power, I have no doubt such legislation will be introduced and will be carried. But this year we have had enough of taxation. Income-tax has been increased, surcharge has been introduced and many other taxes have been introduced. So I consider that this measure, which introduces a sort of innovation, should not be introduced at this time, particularly when the constitutional changes are taking effect very soon. The Bill, as I understand it, would materially affect the Indian Native States and they are bordering almost every district in British India. In actual working it will be very difficult to make accurate calculations for the purposes of taxation. This Bill was submitted to the various Local Governments and their opinions have been given. I will not bother to read the opinions of other Governments, but I should like to read the opinion that has been expressed by the Government of the Central Provinces. This is what they say:

"In reply to Mr. Gupta's letter No. F. 122-II/31-A., dated the 23rd April, 1931, asking for the opinion of this Government on the Indian Income-tax (Second Amendment) Bill, 1931, I am directed to say that the Governor in Council agrees with the provision in the Bill that no attempt should be made to tax persons resident in British India but domiciled in other countries on the whole of their income, whether received in British India or not, because any such attempt would almost certainly lead to international complications and possibly to reprisals.

2. The majority of the persons whom this Government has consulted have protested at the discrimination which the Bill seeks to make between persons resident and domiciled in British India and persons resident but not domiciled. The Governor in Council is unaware how far the computation of income not received in British India is likely to be accurate and what increase of revenue may be expected by taxing such income, but, in view of the general opposition that the Bill is likely to arouse, he is of opinion that the decision on this point might be deferred until the nature of the reforms likely to result from the approaching Round Table Conference is more accurately known.

3. On the other provisions of the Bill the Governor in Council has no suggestions to make."

This is the opinion submitted by the Central Provinces Government. I should like also to read one more small extract from the opinion of the Commissioner of Berar. He says:

"With reference to the Legal Department letter No. 279-340, dated the 5th May, 1931, on the above subject, I have the honour to forward in original the opinions of the Deputy Commissioners, Yeotmal, Akola and Buldana, together with their enclosures and to say as follows. No reply has as yet been received from the Deputy Commissioner, Amraoti.

2. No exception can be taken to the object of the Bill which is to prevent capital leaving the country. Some of the sections, however, as worded at present, are likely to lead to invidious distinction between Indians and Europeans and are therefore open to objections. For instance, a European servant of Government or of a private company, if he invests money abroad or spends his leave in the United Kingdom less than 6 months in any financial year, will not be liable to Indian income-tax

while an Indian in the same position would be. Again, if any Indian spends more than 6 months of a financial year in England he will apparently be liable to double taxation both under the Indian and English Income-tax Acts. I presume it is not intended to create this invidious distinction between Indians and Europeans. If these objectionable features were removed the Bill would receive cordial support."

It will be seen from this that even the Local Governments and the most important officials have got doubts about the efficacy of the Bill and, as I have said already, it may encroach upon income in the Native States. It will really complicate matters, and the result that is contemplated is very doubtful. When the federal constitution comes into existence, probably the whole of income-tax will be a subject between the Native States and British India and in that case probably the Native States will have to be consulted as regards the general policy of income derived in the Native States as well as derived in India or people resident in British India. So the whole thing is a very complicated one and in its actual working it will be still more complicated.

I had no mind to tire out the patience of the House by reading another extract from the Commissioner of Income-tax in the Central Provinces and Berar as it is a very lengthy one, but he also expresses great difficulty as regards the actual working of the proposals and the realisation of the effects that are contemplated by the Finance Department. So I will take the liberty of giving it to the House. He says:

"(i) As regards objections levelled against the Bill the main objections against the Bill are—

(1) That as stated in the Indian Taxation Enquiry Committee Report, not much revenue is to be obtained from the change in the system of assessment.

(2) That it would prevent the capital from going out.

(3) That in certain cases there will be double, treble and even multiple taxation without necessary relief.

(4) That on the eve of Indian Reforms, the question would be whether this should be a local tax or a State tax or a Federal tax.

(5) That large number of persons doing business in the Indian Native States will pay double taxation without consequential relief.

(6) That the Bill introduces the principle of differentiation or discrimination which is not called for.

To all these points I would reply seriatim as follows:

(1) Without any complete enquiries having been made it is difficult to say whether the additional revenue to be obtained on account of the proposed amendment would be small or big. I think the Indian Taxation Enquiry Committee did not make any complete enquiries into the persons doing business outside British India or having investments which carry lot of interest and which are accumulated there only. In any case in these days of financial stringency any little revenue that is added to the budget will be welcomed. But I think that the addition to the income on account of the amendment will be a substantial one. It would not be wise to cite particular instances, but it is a matter of fact that people have been taking advantage of the shortcomings of the present income-tax law and investing their capital outside British India. Not being content with that, they make themselves hold enough to state that because of the Indian Income-tax Act they had to carry their capital to Ceylon or other places where no income-tax was levied. But to their disappointment income-tax is now levied in Ceylon also. It is wrong to contend that for paying tax on incomes earned outside British India there is no return for it to the resident. It may be that the Government of India may not go to war with a foreign power if the investments of a resident of British India are not returned by that power; but all the same, the resident in British India enjoys full amenities of life in British India and it stands to reason that he should take the full burden of Government along with other residents in India. The burden of taxation should be borne by all residents of India and in proportion to their capabilities. If, therefore, a person making income out of India escapes taxation, it means that his brethren have to pay for him, and this in the eye of law, should be treated as unfair.

LEGISLATIVE ASSEMBLY.

Monday, 1st February, 1932.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President in the Chair.

MEMBERS SWORN.

Sir Hugh Golding Cocke, Kt., M.L.A. (Bombay: European);

Lieut.-Colonel Sir Henry Gidney, Kt., M.L.A. (Nominated Non-Official); and

Mr. Ralph Roberts Brown, M.L.A. (Burma Nominated Official).

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. In view of the fact that the subject matter which is coming on for discussion today is of great importance, the Chair tried to ascertain how many Honourable Members wished to take part in the debate. The Chair finds that there is a very large number of Honourable Members who desire to address the House on this important question. Having regard to the fact that we have only a certain number of hours to work during the day, I find that if with your consent I postpone the questions put down on the list for today and strictly limit speeches to the time limit laid down in the Standing Orders, there is room for 12 speakers only, in addition to the Honourable the Mover and the Government Member in charge. That number appeared to the Chair very inadequate, and on further consideration of the matter, it occurred to the Chair that perhaps the House might agree to continue the debate tomorrow instead of taking up the non-official Resolutions which are on the agenda paper for tomorrow which is a non-official day. The Chair therefore wishes to ask the consent of the House to postpone the questions and also to agree to carry on the debate tomorrow so that as many Honourable Members as possible representing various interests who catch the eye of the Chair may be able to address the House. The Chair wishes to make it clear that it has decided to strictly observe the time limit during the whole of this debate—I have therefore to ask whether Honourable Members agree that the questions on today's list should be postponed (*Honourable Members*: "Yes, yes"),—and that instead of taking up non-official Resolutions tomorrow, this debate should be carried on to tomorrow. (*Honourable Members*: "Yes, yes.") **Sir Hari Singh Gour.**

[Mr. S. G. Jog.]

(2) This argument seems to have no weight. If a man has capital and if he is an honest payer of tax, or if he honestly discharges his responsibilities to the State, it is immaterial for him as to whether his investments are made within British India or outside British India, for, like an honest subject, he would always make the return of his income correctly. People who want to find out ways of evading taxation only can object to their incomes from outside British India being taxed.

(3) It is true that in certain cases incomes made outside British India would be liable to double taxation; but the law has made provision for it and necessary relief is granted where the foreign State has agreed to such an arrangement. So far as the United Kingdom is concerned, there is a specific provision in the law for relief from double taxation, *i.e.*, section 49 of the Income-tax Act. The Government could make such a provision in the law only as regards the United Kingdom, because practically it forms part of the same Government, but such a provision is not possible in the case of other powers unless the consent of those powers is obtained. In Seligman, who has been quoted by no less than two Hon'ble Members of the Assembly in opposing the principle underlying the Bill, it is stated: 'The other method of avoiding the embarrassment (double taxation) would be by inter State agreements based on consideration of Inter-State Comity whereby each State would bind itself to refrain from levying more than its equitable and proper share of the tax.' Such an agreement has been arrived at between India and England. This is clear from the provisions of section 49. Same arrangement has also been made with certain Indian Native States as will be apparent from Notification No. 25, dated the 1st July, 1926, issued by the Government of India under section 60 of the Indian Income-tax Act. Thus in States which have entered into agreement with the Government of India and of which the list can be found in the Income-tax Manual (page 95), relief from double taxation is granted even now. It is, therefore, apparent from what has been said above, that the law makes provision for relief from double taxation in case of incomes derived from States which have agreed to such an arrangement. If a particular State refuses to grant such a relief, it is for the assessee to take his chance of investing money there.

(4) In the first place the present law will not stand till after the Federal system of Government in India is introduced, and if it does stand, it would be for the Federal Government to amend the law to suit their requirements. It would not then be difficult for the Federal Government to find out as to how the income tax will be administered. As a matter of fact in the Author quoted by the Hon'ble Members, there is a chapter already devoted to the solution of this problem and it will be found that, as stated above, it will not be difficult to solve the question and say whether the tax will be Federal tax, State tax or Local tax.

(5) I have already answered this point above. As it at present stands, the Indian States who have entered into an agreement in the matter, do grant relief, and in the case of assessees making incomes in such States there is no double taxation.

(6) The chief objection against the Bill is what is called the introduction of the principle of discrimination and this seems based on the definition of 'residents' in clause 4 (*a*). It seems contended that many of the Englishmen (an Hon'ble Member said it was cent. per cent.) though reside in India for a long time, do not declare India to be their domicile. But perhaps the principle involved in the law on the subject is not fully understood by the Hon'ble Members who object to it on the ground of discrimination. The principle involved is not so much of domicile as of double taxation. The income made by Englishmen or foreigners outside British India is not exempt from taxation. He pays local tax and if that were to be taken into account for assessments in British India on the principle of granting relief in cases of double taxation, this income will practically come to be excluded. If, on the other hand, it were to be included in British India also for assessment, the enquiries will not only be prolonged but would be embarrassing to the assessees. Such people will have to produce their accounts or other evidence in India in support of their return and this would cause unnecessary trouble to them, whereas the same accounts or evidence could easily be produced in the countries where the incomes are made. Moreover, I see no justification in taxing the income of a foreigner not at all made in British India. I am, therefore, not of opinion that the income of a foreigner, whether he is an Englishman or not, made outside British India be taxed in British India.

(*ii*) Now as regards the provisions of the Bill.—It is no use giving reasons for the clauses in the Bill. The statement of objects and reasons published along with the Bill explains the necessity of them. As is well said in this statement, these changes

have become necessary merely to slightly modify the principle of assessment from that of origin to that of residence, and this was with the object of taxing incomes of the residents of India who, to avoid Indian income-tax make investments outside it. On the wordings of the clauses there is nothing to be said, as, to effect the change, it is necessary to make some verbal alterations in certain sections of the law."

Sir, I am sorry, I had to read out the whole portion not to tire out the patience of the House at this late hour, but I thought that the view of the head of my province, which has been very elaborately discussed, should be placed before this Honourable House, because he has made certain suggestions and remarks which I thought were worth quoting here. In view of the doubtful nature of the benefits expected from this measure, in view of the complications arising between the Indian States and British Indian subjects, and in view also of the fact that the Federation will in a very short space of time come into existence when the whole law of income-tax will have to be gone into, reviewed, discussed and changes introduced, I am really doubtful whether it is worth while to take all this bother at the present moment to revise the existing income-tax for a short time. In these circumstances, I earnestly beg of the Honourable the Finance Member to withdraw this Bill and take his chances when the new constitution comes into existence in the not distant future.

Dr. Ziauddin Ahmad: May I suggest the adjournment of the House now in view of Ramzan?

Mr. President: As there are several more speakers, I think the House would prefer adjourning instead of going on. I therefore adjourn the House till Eleven of the Clock on Monday.

The Assembly then adjourned till Eleven of the Clock on Monday, the 1st February, 1932.

RESOLUTION *RE* RECENT ORDINANCES.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I beg to move:

"Whereas this Assembly has reason to protest against the manner in which the Ordinances promulgated by the Government of India have been worked in various parts of the country by the agents of Government, and in particular, considers that the action taken against Mahatma Gandhi without affording him the opportunity he sought for an interview with His Excellency the Viceroy was unjustified, that the deportation of Khan Abdul Ghaffar Khan and the arrest of Mr. Sen Gupta before he even landed on Indian soil were against all canons of justice and fairplay and ignored all elementary humane ideas and that the punishment meted out to ladies including their classification as prisoners is to the last degree exasperating to public opinion;

And whereas this Assembly disapproves of the fact that various Ordinances have been issued immediately after the conclusion of the last sitting of the Legislative Assembly;

And whereas this Assembly condemns acts of terrorism and violence and disapproves of the policy of no-rent campaign and similar activities and is convinced that it is the earnest duty of all patriotic citizens to join in the constructive task of expediting the inauguration of a new constitution ensuring lasting peace in the country;

This Assembly recommends to the Governor General in Council:

(1) that he should place before the Assembly for its consideration such emergency Bills in substitution of the Ordinances as he may consider reasonable and necessary in order to enable this House to function effectively as intended by the Government of India Act;

(2) that in view of the grave happenings in the North-West Frontier Province, a committee elected by the non-official members of the Assembly be forthwith appointed to enquire into the same, including the reported atrocities committed therein; and

(3) that he should secure the co-operation—(here I make a verbal amendment by saying)—of all organisations in the country in the inauguration of a new constitution for India."

Lieut.-Colonel Sir Henry Gidney (Nominated Non-Official): Who do you mean by organisations?

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): You will understand it later on.

Sir Hari Singh Gour: Sir, I shall not waste the time of this House by any introduction, but I shall very briefly commend this Resolution to the favourable attention of the House.

The first demand that the Legislative Assembly makes is that the Ordinances should be placed before them in the shape of emergency Bills for their consideration. Honourable Members will remember that the recrudescence of the civil disobedience movement is not a singular or a novel feature in the political life of the country. Two years ago we had the civil disobedience movement here, in connection with which Ordinances were issued and certain measures taken, and when the Round Table Conference was meeting in England there were rumblings of the coming storm. When the Assembly met in November last we knew with a certain degree of assurance that there might be the possibility of a return to the civil disobedience movement. Consequently, Government must have been preparing their Ordinances while this Assembly was in session. Whatever may have been the case, immediately after the conclusion of our labours in November last, we found these Ordinances promulgated one by one in quick succession. The first Ordinance dealing with the Bengal

terrorist crimes was dated the 30th November, 1931. Now, Sir, I wish to ask this House to commit itself to the view that when the Legislature was sitting here in Delhi in November last, if the Government wanted to take power to cope with the political situation which they apprehended was bound to arise in the country it was their duty to bring those emergency Bills forward for the consideration of the Assembly. As a matter of fact Honourable Members are aware that the Government did bring in the Press Bill for the consideration of this House and we gave them power of which the House is well aware. I therefore think that it was the incumbent duty of the Government to give to this House the opportunity which if ought to have had of considering as to how far these Ordinances should be enacted to cope with an emergency. Sir, I fortify my argument for this demand by briefly referring to the terms of these Ordinances. Honourable Members will remember that the power of the Governor General to enact an Ordinance is contained in section 72 of the Government of India Act, and it lays down that the power:

"is subject to the like restrictions as the power of the Indian Legislature to make laws,"

and Honourable Members will find on turning to section 65 that the power of the Indian Legislature to make laws is subject to any:

"part of the unwritten laws or constitution of the United Kingdom of Great Britain and Ireland whereon may depend in any degree the allegiance of any person to the Crown."

In other words, the fundamental rights which the English people enjoy under their common law are the rights which cannot be denied, restricted or abused by the enactment of any measure of the Indian Legislature, and, therefore, they cannot be modified by an Ordinance passed under the extraordinary powers of the Governor General under section 72. Need I remind my Honourable European friends and those who are interested in the subject that it is pointed out in Taswell-Langmead's "History of the English Constitution", page 95, "that three great political documents in the nature of fundamental compacts between the Crown and the nation (mark these words "fundamental compacts") stand out as prominent land marks in English constitutional history— the Magna Charta, the Petition of Rights and the Bill of Rights which constitute, in the words of Lord Chatham, "the Bible of the English constitution" and in each of these documents, whether it be of the 13th or the 17th century, is observable a common characteristic of professing to introduce nothing new. Each professed to assert rights and liberties and sought to redress grievances which were for the most part themselves invasions upon the ancient liberties of the people? Honourable Members will thus find that these fundamental rights which the English people have been enjoying under their common law cannot be modified by any Act of the Indian Legislature, and let me briefly give to Honourable Members what these fundamental rights are. In the first place, it was settled as far back as 1763 that the executive Government had no right to issue general warrants or blank warrants. The second point was that the executive Government had no right to arrest without legal justification, and that the subject was entitled to redress against such arrest by either instituting proceedings for false imprisonment or suing for indemnity. The third thing was an embodiment of the then existing common law in what is known as a Habeas Corpus Act. The fundamental principle of that Act is that

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if any one is arrested by order of the executive, he has got the right of appearing before a judicial tribunal and calling upon the executive to surrender his body to the judiciary for trial. The fourth fundamental right which the English common law gives to every subject is a right of indemnity against illegal or oppressive action of the servants and dependents of the Crown.

Now if you were to put to the test the Indian Ordinances passed over the signature of His Excellency the Governor General, and for which the Government of India are primarily responsible, you would find that the following are the characteristics of many of them. In the first place every Ordinance provides that whatever the officer of Government or servant of Government may do in the discharge of his duty, he is indemnified against all civil and criminal actions. In other words, they have been granted immunity before they commit any offence and whatever may be that offence, the subject has got no right of redress against their action which, I submit, violates the first fundamental principle of English law embodied in the rights to which I have referred. The second point is that any officer of Government may detain any person for a period of 15 days and if the Local Government so sanction it, for a period of two months. There may be no charge against him, no credible information against him and no evidence against him. The right of detention is there and the subject has got no right of redress. Then, Sir, the Ordinances give large and plenary powers of search. The officers of Government are here empowered to enter the most sacred precincts of an Indian household and they are entitled to make a search. Then you have got a provision for the seizure of all property moveable and immoveable and the Government has got the right of confiscating that property. Then you have got one of the most extraordinary provisions of law which I have ever read anywhere. The other day Honourable Members will remember that in a mere jest I referred to the vicarious punishment which I said was permissible under the laws of China, and the Honourable occupants of the Treasury Benches smiled at that reference. Little did I know that that suggestion would be embodied in the Ordinances with which we are concerned. If Honourable Members will turn to section 24, they will find that it is there laid down that:

> "if any young person of 16 is convicted of an offence under the Ordinance or of 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 pay a 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."

But that is not all. In any such case the court may direct by its order that in default of the payment of the fine by the parent or guardian, the parent or guardian shall suffer imprisonment (*Cries of* "Shame", "Shame") as if the parent or guardian had himself been convicted of the offence for which the young person was convicted. Sir, I gasped for breath when I read these lines! Is there anything in any constitution of the civilized world that can compare with the Draconian provisions of this piece of legislation? I said the other day that I had mentioned it as a passing jest, but, alas, I sit here to see the fulfilment of it upon the temporary Statute-book of the Government of India! Sir, comment upon these Ordinances is futile. I submit that the least this House can do is to compel the Government of India—I do not know how far our resolutions do compel the Government of India—but at any rate, let us with one united voice demand of the Government of India that these Ordinances, if they are to cope with an emergency which is still in sight and is likely to continue, must be brought before this House so that this House may review and consider them and give the Government of India such power as the House might think fit. That, Sir, is my first point.

I now pass on to a more gloomy episode in the history of repression in this country. My second submission is that a committee should be appointed for the purpose of inquiring into the reported atrocities in the North-West Frontier Province. Sir, I read the other day a gloomy and harrowing tale of oppression, of tyranny and of torture committed in the name of these Ordinances by the officers in the North-West Frontier Province. My Honourable friends will remember the words of Father Elwin. They were communicated to the press, but I do not rely upon that indirect report which has appeared in the press. Fortunately for us we have an eye-witness amongst us. Our esteemed colleague, Maulana Shafee Daoodi, has been to the frontier and he will enlighten this House upon what he saw with his own eyes in that unfortunate province. I shall not, therefore, give second-hand information when this House will soon be in possession of first-hand information, and I shall, therefore, rest content by saying to this House that the least that it can do is to demand that an impartial and independent inquiry should be made into the outrages reported to have been perpetrated in that unfortunate and defenceless province.

Sir, my last point is a very short one; and I think that whatever may be the differences of opinion between Honourable Members upon the other points, there cannot be any difference between ourselves and the Honourable occupants of the Treasury Benches on that point. They, as well as we, desire the co-operation of all parties, of all organizations for the fulfilment of the promise from time to time given by His Majesty's Government that they want to pursue their objective of the grant of self-government to India. We on both sides want the co-operation of all organisations and of all parties in the country. Now under the repressive policy that is being pursued by the Government, that co-operation is impossible, while the predominant parties who have been in the country working for reforms and striving after the redress of the people's grievances, while their leaders, and not a few of their followers are at the present moment in jail. My Honourable friend, Mr. Ranga Iyer, gave notice of one such Resolution dealing with the incarceration of the leaders of the civil disobedience movement. He has special knowledge of that subject, and I shall, therefore, rest content by asking you to commit yourself to this Resolution, which, as you will find, is divided into three parts. I need hardly remind my Honourable colleagues that whatever differences we may have, whatever feeling we may cherish about the civil disobedience movement, at any rate the vast majority of us are not in sympathy either with the terrorist movement or with the no-rent campaign or other displays of lawless activity in this country. But, however unfortunate those activities might be, we, as mediators standing between the two extremists, those of the Government and those of the agitators outside, have our duty plain, and that duty is that we should give to every man his due regardless of the party or partisanship of his creed. That, I say, Sir, is the object with which Members in this Assembly representing the various communities, classes and interests have come to legislate and

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to guide, and if possible the policy of the Government. Whatever, I say, may be our sentiments, howevermuch we may disapprove of the activities outside, one thing is certain, that even the prisoner in the dock is entitled to fair play. (Applause.) I submit, therefore, that we are only here asking the Government to give every man those elementary rights of citizenship which he has a right to enjoy. Sir, under these Ordinances, you, and I, who have got nothing to do with the civil disobedience movement, every member of a peaceful community, however detached and unconnected with the political movement, stands in jeopardy of his liberty and life. ("Hear, hear.") That, I submit, is the position into which these Ordinances have launched all law-abiding peaceful citizens. These Ordinances have armed the executive with the unlimited power of seizure of person and property, with no chance of the subject obtaining relief in the ordinary courts of law to which every citizen of the empire is entitled? That, Sir, is our grievance. That, Sir, is the reason why we have come here to ask the Government to do what we consider to be but right and fair. If the Government accept our Resolution—which I doubt (Laughter)—they have only to place before us their Bills, and they will receive that co-operation and support which this side of the House has never stinted. ("Oh, oh" from the Non-Official European Benches.) They know very well from the history of past measures to what extent we have responded to the call of co-operation from the other side: and I say, therefore, that, so far as the Government are concerned, their hands will be strengthened by securing the co-operation of the elected representatives of the country in this House. If they do so, they have nothing to fear. If, on the other hand, their real intention is to strike terror into the people of this country, to establish their prestige regardless of the consequences, then we, the representatives of the people shall have done our duty by recording our protest against that policy. It is with this dual object, Sir, that we are met here this morning; and I appeal to all classes and all communities to join me in condemning the policy of the Government of India ("Hear, hear") of ruling the country by means of Ordinances and exceptional and arbitrary legislation. I therefore ask and appeal to my friends occupying the Treasury Benches, and may I add that my appeal, I hope, will not go in vain if I extend it to the Centre Group, to the members of that freedom-loving and freedom-giving nation, who have fought and won those fundamental rights for which their forefathers have bled. May I ask for the co-operation and support of that section of this House? Sir, we have met here not as members of any community, not as representatives of any class or interest, nor have we met here in order to voice the sentiments or to preserve and safeguard the rights of any one community or class, but we have met here as the ambassadors of the people whose duty it is to serve unswervingly, loyally and fearlessly their motherland. I hope that Members of this House will rise to that height of national patriotism by sinking all parochial and class differences and see that the elementary rights for which I am pleading are not denied to the people outside this House. Sir, we are apt sometimes to forget that, while we ourselves have not been subjected to the rigours of the Ordinances, their horrors have shaken the whole country from East Bengal right up to the North-West Frontier Province. But let us extend our sympathies to these unfortunate victims of the Ordinances who have been incarcerated and against whom no reasonable and sufficient evidence has been recorded. The ordinary procedure

and forms of law are in suspense; the doors have been closed against them. Their sighs and cries are heard in the wilderness; no one gives them a friendly response. If this House does not, who else will? Let us therefore unite; let there be no divided counsel upon the vindication of those elementary rights of humanity. Let us all, therefore, remember first that we are the sons of India and that we meet here for the common service of our motherland. Let us remember that: Lest we forget, Lest we forget! (Applause.)

The Honourable Sir James Crerar (Home Member): Mr. President, I need hardly say that I have invariably listened with the utmost attention to anything that falls from the Honourable the Leader of the Nationalist Party and on the present occasion I have listened to him with a special degree of interest and attention. Naturally, I desired to know what precisely were the motives and what precisely were the intentions which inspired him to move this Resolution at all. But in particular I was anxious to receive from him an elucidation of some points which still present to me grounds for considerable doubt and difficulty as to the precise meaning of what I think I may call without any offence a somewhat composite document. It is, in fact, a piece of mosaic, curiously and intricately pieced and dove-tailed together. It contains propositions or it appears to contain propositions which I find extremely hard to regard as otherwise than mutually incompatible. It contains certain propositions which Government would not have the slightest difficulty in endorsing—propositions, if I have understood them correctly, which indeed Government have been the first to affirm and which Government have been more active than anyone else in carrying them out into practical operation. But, Sir, there are certain other elements in the Resolution regarding which I could not but feel a greater degree of hesitation. I have difficulty in connecting some of the propositions contained in the preamble and I have also difficulty in tracing any reasonable and logical connection between those propositions and the specific recommendations which the Honourable Member appeared to urge. Therefore I was in great need of elucidation of these important points and I must confess to a very considerable sense of disappointment in what has fallen from the Honourable Gentleman. On one point only there can be no doubt and that is that the Honourable Gentleman intended his Resolution and commended it to the House as a censure upon the policy and upon the proceedings of Government. That being so, it will not surprise the House when I say that the attitude of Government with regard to this Resolution can be none other than that of strenuous opposition. ("Hear, hear" from the Government Benches.) It is true that the Resolution contains—and the Honourable Member to a certain extent pursued that point—censures upon terrorism, upon the no-rent campaign and upon various other activities unspecified. It appears to me, Sir, that it would have been easy for the Honourable Member to have placed before the House the real issues on this important occasion in a much more simple and direct form. It appears to me also that if they had been logically and consistently pursued they must necessarily have ended not in a vote of censure but in a vote of confidence in the Government.

I understand, therefore, that the general policy and the general action of Government are impugned by this Resolution. I should like to say a few brief words, they must necessarily be brief and summary because it is impossible in the time at my disposal to traverse so extensive a territory, on what is the policy of Government. The policy of Government,

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in the first instance, is to take up the challenge which has been quite unnecessarily, quite unwarrantedly thrown down, a challenge to all forms of ordered government and to any ordered form of society. This must be the continuous and consistent policy of any Government, but it is more than a policy, it represents the primary and the most important reason for the existence of any Government at all. (Hear, hear.) In taking up that challenge and in dealing with it with all the powers at our command in the performance of our responsibility, we are, I say, discharging not only a duty which primarily rests upon us as a government to the people and the public of India at the present time, but we are equally discharging a trust for the future, whatever Government may hereafter subsist in this land.

The second part of the policy of the Government is to prosecute the advancement of political and constitutional advance and, in order to carry on that policy, to secure the widest measure of agreement and the greatest measure of co-operation from every interest, from every organization, from every individual in India who is prepared to contribute constructively to that end. (Hear, hear.) I need hardly point out that, quite apart from the fundamental responsibility resting upon Government in the maintenance of law and order, it would be quite impossible for them to carry on this policy of constitutional reform, to enable those in India—they are many and I believe they are a vast majority—who desire to follow the path of constitutional reform by constitutional methods, it would, I say, be impossible for us to enable that policy to be carried out, with the co-operation of all those great interests, unless we simultaneously maintained conditions under which alone such a policy could be profitably pursued. (Hear, hear.) I desire to get away from the ground of mere statements, of promises and statements of policy. I maintain that during the course of the whole period during which constitutional questions have been discussed—I refer more particularly to the course of events in the last two years—Government have shown not in words only nor in any mere expression of principle, but in practical fact the sincerity of their intentions. I will go back to no more remote date than the first Round Table Conference, when His Majesty's Government, in complete concurrence with the Government of India, adopted, as a means for solving the important problems which lie before us, the method of free and frank discussion in order to obtain the greatest measure of common agreement. That attitude was fully and authoritatively expressed in the Prime Minister's statement of 19th January. Then followed what was I think to be the next most important event, what is commonly called the Delhi Settlement. Government have been in many quarters very much criticised for the part which they took in that announcement. For myself I look back upon it without one atom of regret. I regret indeed many of the events that followed upon that settlement and have put us in the position in which we find ourselves today. I do not regret that that honest and sincere attempt was made. If it failed it was not our fault, and the position with which we are now confronted, I say again is not the fault of Government. They did nothing to provoke it. They have only taken upon themselves to do what in the face of that challenge was utterly incumbent upon them to do. Then, Sir, we had the second Round Table Conference, we had a further statement bringing

the position up-to-date once more by the Prime Minister. That was followed immediately by the announcement of the constitutional committees which have now arrived here and the actual work of seeking a practical solution of the difficulties which are still unsolved is now proceeding. In view of all that, I can fairly contend that throughout Government have not merely been lavish of promises but at every step where it was possible to make practical advances on those lines they have taken that step. It is their intention to continue to do so and to maintain the conditions under which alone progress on those lines can be effected. What in point of fact was the position during the latter part of this year. The Honourable Member opposite devoted a large part of his speech to what I understand was a constitutional examination of certain legal points. I understood him to impugn the validity of the Ordinances; the particular argument he used, I think he would be prepared to admit, was dealt with in full in the famous judgment of Markby J., and in a well known decision of the Privy Council which ended up by the declaration that that argument could not be upheld.

Sir Hari Singh Gour: What about the judgment of Norman Judge?

The Honourable Sir James Crerar: I do not intend to follow the Honourable gentleman further on that line, but he complained also against the issue of the Ordinances at all. What was happening in the United Provinces within seven days of the issue of the announcement constituting the Delhi Settlement. The following circular was issued by the All-India Congress Committee to their affiliated bodies in the United Provinces:

> "It is vitally necessary that you should take immediate steps to consolidate the position gained by the Congress during the last year and strengthen it still further. If we now establish firmly definite centres of work and activity in rural areas, we shall strengthen our organisation and prepare the people for any contingency that might arise. . . . . I need not tell you the provisional settlement in Delhi means a truce only and no final settlement." (Hear, hear.)

An Honourable gentleman applauds that sentiment. I ask the House to consider candidly whether a message of that kind delivered within a week of the announcement of the Delhi Settlement indicated the spirit and intention of carrying out either the spirit or the letter of that settlement. Nor was that an isolated instance. Preparations for the renewal of the campaign of civil disobedience were continued throughout the whole of that area. The Government of India on their part and the Local Governments on theirs observed that settlement with the most scrupulous and meticulous attention. They did it in the face of very strong criticisms to which I have already alluded. They did it knowing themselves perfectly well that they were undertaking grave risks in doing so, but they thought that they should exhaust every possibility, that it was incumbent upon them to give all those who, whatever their previous attitude, still manifested any disposition to join in the great and common task that lies before us, the fullest opportunity of doing so. They incurred grave risks, but, I regret to say, in vain. The Government of the United Provinces were confronted with a situation of the greatest difficulty because the economic conditions in the agrarian tracts is a difficulty which not only bears hardly upon the agricultural population of the country but presents a very grave and very serious problem to Government. The Government of the United Provinces attacked that problem with the greatest sympathy. They acted in the most constitutional manner possible. At the earliest stage they took their own Legislature

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into confidence. They formed a committee of that Legislature, they laid proposals before it, and in the event measures were taken, liberal measures, for the relief of agricultural distress, the existence of which no one denies, with the full concurrence of their Legislature. Was there anything unconstitutional about this, Mr. President? Meantime every kind of agitation to prevent a peaceful solution of these great difficulties was being carried on. It is not my purpose to impute to all those who were concerned in creating the difficulties with which the Government of the United Provinces were met that they were not partly actuated at any rate by sincere sympathy with agricultural distress; but I do say that whatever their motives and intentions may have been, it was a reckless and dangerous course to pursue and a course which might very easily have ended, but for the prompt measures taken by the Government of the United Provinces, in one of the most dreadful and disastrous of contingencies that can ever confront a country, an agrarian revolt. The Government of the United Provinces held their hand till the very last moment. Resolutions were passed which were plain breaches of the Delhi Settlement,—they still held their hand. In one district after another the no-rent campaign was initiated and prosecuted with vigour,—they still held their hand. But at last the Government of the United Provinces, presided over by one of the wisest, one of the most sagacious and one of the most prudent administrators in India or any other country, finally told us that unless they received those powers, unless they put them promptly into execution, the situation would become entirely beyond control and that they would be faced with what I have already described as one of the most mischievous, one of the most dreadful, one of the most deplorable situations with which a country can possibly be confronted. That is what happened in the United Provinces.

The course of events in the North-West Frontier Province was very similar. Congress propaganda was carried on with the utmost recklessness and irresponsibility. Though the late Chief Commissioner and the present Chief Commissioner tried all means in their power to secure the co-operation of Khan Abdul Ghaffar Khan and his friends, we all know the result. The most dangerous agitation was continued; every attempt, every overture with a view to co-operation was rejected. The statement made by the Prime Minister was contemptuously rejected; and again, it was only when the Chief Commissioner had satisfied himself and had satisfied us that the extreme limits of peril had been reached and in a day or two might be overpassed that this action was taken.

I say nothing about the state of affairs in Bengal because it is impossible for me to pursue every issue which is involved in the Resolution before the House. But the broad issues are simple and I have already stated them. Are Government to discharge their first and primary responsibility or are they, on the other hand, to make a grave dereliction of that responsibility? Have they in consequence of taking the latter course shown to India and to all the world that the solemn promises and public pronouncements made by a succession of Governments and a succession of statesmen are not to be fulfilled? Are we to present to India the deplorable account that, because we have not the courage to deal with lawless activities we must resign, on their account and our own, all hope of attaining to that next and great advance in constitutional development which, in spite of all that has happened, in spite of all that may happen, I confidently predict we shall attain?

Now, Sir, I have very nearly reached the limit of my time, but it may perhaps be objected to me that I have not given a fair account of the activities of the Congress which have necessitated these Ordinances. There can, I imagine, be no reasonable misapprehension on that point. The leaders of the Congress Party have always been perfectly plain in the exposition of their position, namely, that their programme, their campaign, is directed to subvert the existing system of Government. It has been pretty plain to the great majority of the people of this country who do not support the pretensions and the policy of the Congress that incidentally there would be imposed upon them, as during the last non-co-operation campaign was undoubtedly the case, an intolerable tyranny. They know perfectly well that these things lead to utterly barren and infructuous ends. But lest I should be asked whether there is any recent indication that that still stands as the policy of the Congress, I will read only two extracts from a publication which now appears surreptitiously in the city of Bombay, and is a plain statement of what lies behind the non-co-operation movement. Here is one which was published on the 20th January:

"The programme of the Congress is the complete overthrow of the British power in India, and capturing the power for the toiling masses of India. It is a fight to the finish and no quarter will be given to our foes or their allies, *viz.*, those Princes, aristocrats, zamindars, capitalists and others who have joined hands with the British Imperialism with a view to exploit the Indian peasants and workers. We, the Congress, stand for complete independence, and the war shall end when we get it. Till the fight goes on, we shall fight on with non-violence as our only shield and we will expect the country to stand with us through that war. We shall not confer with the British Imperialism until it bends its knees and sues the Congress for peace."

Again, published on the 26th January:

"The present war like the last one gives the training to the people, organises them *into stronger groups, unites* the workers and the peasants in a fraternity of the downtrodden, so that when the psychological moment comes, these united forces with a concerted action deal a single blow and destroy all Imperialistic forces which may include all, who today and then may help or give assistance to Imperialism to gather strength to crush us, to suppress our aspirations, to curb our spirit and to annihilate our land

Let the watchword for the nation today be: This is a fight to the finish. Unite before you are parted, arise before you are killed, organise your forces, concentrate on the ultimate goal and on with the Revolution. *Inqilab Zindabad*!"

Now, Sir, it is in face of threats of that kind, in face of action adopted to carry out threats of that kind, that the Government have felt compelled to resort to extraordinary legislation. And I desire to say this that, in proportion as those powers are drastic, so we recognise the necessity that they shall be administered with the strictest discipline and with the greatest moderation and restraint. That has already been enjoined upon the Local Governments, who themselves are dealing with the matter in that spirit. But seeing that every kind of law and all general executive orders have to be carried out by a human agency, one cannot exclude the possibility that excessive zeal, or possibly, under stress of circumstances, mistaken judgment, may conceivably result in events which we should all deplore. But it is the view of the Government of India, a view fully shared by the Local Governments, that these extraordinary powers must be administered with strict discipline, as I said, and with the utmost restraint and moderation, and it is in that spirit that they will continue to be administered so long as they may unhappily be found to be necessary.

12 NOON.

[Sir James Crerar.]

I have one word more to say before I conclude. It was said not very long ago that India was at the parting of the roads. Certainly there is now the choice between two ways. There has always been that choice, the way of constructive and constitutional progress towards a foreordained constitutional end on the one hand and on the other the barren road of destruction, disorder and lawlessness. They cannot be pursued together and I myself can hardly imagine that any one who has the true interests of India at heart could possibly hesitate in his choice. We have made our choice, and I stand here to justify that choice before the Assembly today. But I go further. I say that every man who admits that that is the right choice ought to give us not only his confidence but his practical assistance and support. I said that I was compelled to treat this Resolution as a vote of censure upon the policy and the proceedings of the Government. On the grounds which I have laid before the Assembly, I maintain that the verdict of this House ought to be and I am confident that it will be, a vote of confidence in the policy and in the proceedings of the Government. (Applause.)

Sir Hugh Cocke (Bombay: European): Sir, it is with some reluctance that I join in discussing the many issues which are before us today, because I have only been in this capital city for a few hours, and therefore if my remarks are somewhat disjointed and appear to bear rather a provincial strain, I hope I may be excused. What is the common ground from which we approach this motion? Is it that we are agreed that India is to be governed, or is it that we are agreed that the government of the day should be opposed in any steps that they take to govern? There has been a lot of criticism not merely from Indians or from Englishmen in the last two years, but from people quite disconnected with this country, that the country has not been governed, that there has been too much of government by conference and by friendliness. That is all very well as long as the opposition continues its friendliness and as long as a certain minority does not take those steps, in the name of non-violence, which rapidly lead to violence. Government by conference and government by discussion has, I think, failed. It is with much regret that one has to admit it . . . .

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Why not then disband the Committees and the Conferences as they have railed?

An Honourable Member: And the Legislature?

Sir Hugh Cocke: As long as one could keep those conferences going, I mean the inner conferences quite apart from the Round Table Conference and the friendly discussions as to how to surmount the difficulties created by people who are out to thwart the Government—as long as they are successful it is all right. But looking back, I have no doubt in my own mind that these efforts at friendliness have not been successful and the Government have now got to govern with a firmer hand, bearing in mind, as the Home Member has said this morning, that they are trustees to hand over India to a new form of government within a comparatively short time; and if that India is handed over with a great lack of respect for Government, I am afraid the new constitution will start with great difficulty and will fall on evil days.

There are so many points in this Resolution that one does not quite know where to begin; but I am going to make an effort to deal with a few of them. The first paragraph in the preamble is a statement protesting against the manner in which the Ordinances promulgated by the Government of India have been worked in various parts of the country. It is quite impossible for a single individual to take up that point for the whole of India. But on that opinions will no doubt differ. As regards my own province, Bombay, from what I have been able to see and ascertain, there has been no great protest against the manner in which the Ordinances have been worked. Obviously they are not liked—no one likes to be governed by Ordinances. But so far as they have been worked, they have not been successful in doing the work thoroughly which they were designed to do; and as long as picketing continues, and leaflets, such as the one we have heard of this morning, are issued, and as long as outward hostility to Government, and inward hostility also, go on, so long will it be necessary for these Ordinances to be worked in the way they are designed to be worked. I consider there is no case today, so far as my province is concerned, to say that the Ordinances have been worked unreasonably. . . .

Mr. B. Das (Orissa Division: Non-Muhammadan): From your point of view. From the European point of view.

Sir Hugh Cocke: From my point of view and from the point of view of the public good.

With reference to the next point, as regards the action taken against Mahatma Gandhi; every one, I think, regrets that it was not possible for Mr. Gandhi to carry on the work that he had begun by going to London to attend the Round Table Conference. But I cannot help feeling that just as it is the duty of the Opposition in this House to oppose Government, so it has always seemed to me it has been the work of the Congress to oppose Government, and the leaflets we have heard read this morning bear that out. Therefore it seems to me that it would have been extraordinarily difficult for Mr. Gandhi to come back and to take his own line and proceed with constructive work. He had people against him, and therefore I feel that the action taken by the Government was essential, and even if it had not been taken then, it would have had to be taken soon after. It would have meant either that or else a break-away by Mr. Gandhi from the extreme elements of the Congress. The two could never have gone on together.

Well, Sir, coming to the point as to whether these Ordinances should have been issued immediately after the conclusion of the last sitting of the Assembly, I think it is obvious that it is impossible for this Government, as it is constituted at present, to expect the powers they require from this House; it is no good imagining that it would be possible for Government to get the powers they require to meet the existing situation from this House.

Mr. K. C. Neogy (Dacca Division: Non-Muhammadan Rural): Then dissolve the House.

Sir Hugh Cocke: Experience goes all the other way, and therefore we have to get down to broad facts and give the Government credit for having issued these Ordinances in the best interests of good government.

Now, coming to the three recommendations, the first of which say that the Government should place before this Assembly at an early date emergency Bills to take the place of the Ordinances, the remark I have just made equally applies; it would be quite impossible, I am sure, for

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Government to get the necessary powers from this House, and regrettable as it is, it is necessary in my view and in the view of my friends that this government by Ordinances should go on, no longer than is necessary, but as long as is necessary.

As regards the Committee of non-official Members to go to the North-West Frontier Province, that does not seem to be practical politics at all. We have heard a lot about the North-West Frontier Province in the last two years, and I think there has been too much interference, if I may say so, by Members of this House, in the process of government there. Again we come back to the fact that there has been too much of interference in the process of government by conferences and discussions with Government.

Mr. C. S. Ranga Iyer: Do you then want bayonets and machine guns?

Sir Hugh Cocke: Finally, it is stated that the Governor General in Council should secure the co-operation of the Congress and the Moslem and Hindu organizations including the depressed classes in the inauguration of the new constitution for India. No one will take any exception to that in so far as it is possible to get that co-operation. After all, what is the Government doing at present? In these Round Table Conference proceedings all these organizations are represented with the exception of the Congress, and I fail to see that there is anything more that Government can do except to proceed with these Committees, which are now starting work, as rapidly as possible; but do not forget the saying, "More haste less speed." Mr. Gandhi always seems to think that the new Government can be settled by a stroke of the pen. I remember Diwan Bahadur Rangachariar, when he moved his suggestion for a Round Table Conference about seven or eight years ago, suggesting that when they go to London they could sit round the table and all matters could be settled in a very short time. Well, we know to what problems these discussions have already led,—the problems of franchise, finance and so on,—and it is no good attempting to get this thing through more speedily than is reasonable. I suggest to this House that, while it is essential that no time should be lost in proceeding with the work of inaugurating the new constitution, it is a great mistake to lead the country into impatience, because these problems of franchise and finance and others will take time to settle; it is no good having half a constitution. You have got to have your scheme, your foundations, truly laid.

Sir, a lot might be said about this Resolution, in fact there is a lot that might be said about any one paragraph of it, but I am a person who makes very short speeches in this House and I cannot think of anything of great importance to add, but I venture to think, judged by current events, that if Government had not taken the steps they have taken in the last two months, the situation today would have been far worse. ("Hear, Hear" from the European Benches.) My friends on the other side will not agree with me. Perhaps some of them will, in their heart of hearts, but they will nevertheless support this motion, but I put it to them that the time has come when Government have got to take a very firm line in government, and that the Congress, the extreme agents of the Congress, have got to be told, as they have been told of late, that all their so-called methods of non-violence have led to much violence, to much terrorism, and Government cannot tolerate the continuation of that. By all means bring the friends of Congress into the discussions for the future constitution of India, if they are friends of India; but it is

impossible to say that those who have been working in the last two years to subordinate all respect for law and order are the friends of India. Bring in the friends of India but exclude the others.

Mr. C. S. Ranga Iyer: Sir, my task is very much lightened, because I can just go for the two birds together,—the official and the non-official birds. (Laughter.) It is better to hit the two birds with one stone . . . I can just go for the two birds together,—the official and the non-official birds. (Laughter.) It is better to hit the two birds with one stone . . .

Mr. K. C. Neogy: They are birds of the same feather.

Mr. C. S. Ranga Iyer: My Honourable friend, Mr. Neogy, says that they are birds of the same feather that have today flocked together. Sir, it is very difficult to make the choice as between this argument except that my friend the Home Member, the erstwhile leader of this House, spoke with his usual moderation, because following his boss in Whitehall, he is a man of action. He does not believe in strong words; he believes in stronger deeds. And he told us in his usually moderate way of what the leader of the European Group described as "hard facts". Hard facts, as I shall presently prove, cannot be liquified by soft words. What did the Home Member tell us? He told us that the administration of Ordinances was carried on with moderation and with restraint. I think that is what he told us. I shall presently prove what their moderation means, and if that is their moderation, what their extremism would mean. Sir, a distinguished friend of mine not very long ago a Member of Government, called on me yesterday and I discussed with him before his departure for his province a certain kind of moderation that characterised the action of the very immodest Government in his Presidency. An Englishman, a relation of Lord Shaw by marriage, who has taken to the noble profession of a missionary in India and who is carrying on the good work of elevating the depressed classes and giving medical aid to the poor, who is putting on today the costume, the coarse costume that the poorer classes in the South wear, khaddar, home spun, home woven, was in Madras. His best friend is the Principal of the Christian College, the well-known Dr. Hogg. My friend—not very long ago a distinguished gentleman on the Treasury Benches, and always a true well-wisher of the Government—and I were discussing yesterday,—and I have the authority and right to say that today as everybody knows that what I am saying today is public property because it has been published and denounced throughout the country,—the utter moderation of the Madras Government in this era of administration through Ordinances. But they have been guilty of immoderation. This missionary gentleman, Dr. Paton, coming from an aristocratic family in England, went to see how picketing was going on in Madras. He was not a Congressman, he was not a picketer at all. And what happened, The hose was turned on him. (Laughter from the European Group Benches.) Here are gentlemen shouting, screaming, yelling laughter—the Anglo-Indian gentlemen over there. But they cannot laugh for long. He just tried to escape the hose. and what happened. He was beaten, beaten by sergeants unworthy of tying his shoe strings. And laugh again that loud laugh that bespeaks your vacant minds! (*An Honourable Member*: "Shame.") My Honourable friend says shame—shame to those honourable gentlemen seated on those Benches—these Anglo-Indian worthies if they have any sense of shame. If the Honourable the Leader of the European Group had that sense of shame, he would not have described Mahatma Gandhi and his followers as no friends of India. He would not have arrogated to himself that qualification of friendship for India. I dread these "friends". If

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they called themselves enemies, it would be franker and truer, but his was a propagandist speech for outside consumption. We all know the friendship through exploitation that has been carried on in this country and that is to be carried on with the help of Ordinances, because a nation has risen up in protest, terrific protest, protest which will be carried out—and I say that with the responsibility attaching to my position here, in the same spirit in which Mr. Redmond used to say of Ireland in the House of Commons. Our position, Sir,—we are constitutionalists—is the same as the position of Mr. Redmond in Ireland, and the position of Mahatma Gandhi is the position of the extremists in Ireland even though they were not wedded to non-violence to which he certainly is. That being our position, the Honourable the Home Member must understand how intricate it was for him to understand our position. We have got various people on this side. We have got the depressed classes to represent, and the Honourable the Home Member consistently denied—at any rate previous Home Members, not himself—our capacity to represent the depressed classes of India. A Brahmin of Brahmins myself, coming from the Presidency of the depressed classes, I am standing up here to-day to say that we have deliberately incorporated in our Resolution everything relating to the depressed classes so that it may not be said by these people here and elsewhere that the Brahmins stand between the depressed classes and the light of the world. Then again he could not understand and could not piece together what he was pleased to characterise rather satirically as a somewhat composite document. He cannot understand the Hindu Nationalist opposition seated on these Benches sympathising with the Frontier Province. Had he been to the Frontier Province, he would understand how the Red Shirts are being harried. There the Leader of the European Group knows reforms are coming—"harry the Red Shirts, hurry reforms and rally the Round Tablers"—that seems to be the official policy. The Leader of the European Group himself described the reforms policy as a failure. He said the Round Table Conference had failed. I endorse that proposition. We did not constitute the Round Table Conference. Those who composed the Round Table Conference were the nominees of either Mr. Ramsay Macdonald in England or his associates in India. I do not know, and it has never been said on the floor of this House who exactly was responsible for the composition of the Round Table Conference. But there was one representative on the Round Table Conference who had behind him the opinion of the Indian people, and that representative is the great man who has today been silenced under an immoral Ordinance, or an immoral Regulation. He is behind prison bars . . . . .

Lieut.-Colonel Sir Henry Gidney: Question. *(Some Honourable Members on the Opposition Benches:* "Oh, oh.")

Mr. C. S. Ranga Iyer: I hear a familiar voice who questioned him in the Round Table Conference in London and who questions me to-day on the floor of this House.

Lieut.-Colonel Sir Henry Gidney: Yes, I question you on the floor of the House and am prepared to question you outside this House, if you would like to come out now. I am not afraid of what I have said.

Mr. C. S. Ranga Iyer: Sir, my Honourable friend Sir Henry Gidney is a nominated Member of this House and he represents the Viceregal Lodge.

Lieut.-Colonel Sir Henry Gidney: You could get no representation in your own Province so you had to come to another for a constituency.

Mr. K. Ahmed: You are nominated Member he says. (To Lieut.-Colonel Sir Henry Gidney.)

Mr. President: Order, order.

Mr. C. S. Ranga Iyer: The Honourable gentleman is not very clear about himself . . . .

Lieut.-Colonel Sir Henry Gidney: You are very hoarse.

Mr. President: I have called the House to order. There should be no interruptions of this kind.

Mr. C. S. Ranga Iyer: Government were talking of the sincerity of their intentions. Sincerity of intentions was plainly proved when Dr. Paton was insulted and beaten in Madras. And then fearing that he would file a case in Court because he was not a Gandhiite, he was not a non-co-operator, the police themselves filed a case against him. Then what happened? The Government of Madras sat on the police. The police wanted to withdraw the case. That is how the Ordinances are being administered. I shall not waste the time of the House, and especially my own time, by reading what he has stated, because my time is limited, but I would ask the Honourable the Home Member to read his statement because he belongs to as good a family in England as any gentleman seated on the Treasury Benches, and he has come to this country with as good an intention as any gentleman seated on those Benches. And if that can happen to one of them by no mistake, imagine what will happen, what has been happening to our people, to ladies belonging to respectable families, like Mrs. Shamlal Nehru. Notwithstanding the fact that her husband was an honoured Member of this House, she has been after imprisonment put in "B" class. *(Cries of* "Shame.") This is what I call malice *(Cries of* "Shame"), this is malicious. Her uncle was a revered leader sitting on these Benches, the great Pandit Motilal Nehru. I have given two instances to the Honourable the Home Member to show that the Government have neither been moderate nor fair in the administration of the Ordinances which, my Honourable friend and leader Sir Hari Singh Gour, in his very good speech, closely reasoned and legal speech, has proved, have no leg to stand upon. Hatched and hurried behind the back of this House and not brought forward before this House, they have no sanction behind them except the sanction of autocracy, of force, which is the foundation of British rule in India, and to shake which another force,—the force of non-violence—has been let loose on this country. We stand between bureaucratic terrorism on one side and non-violence non-co-operation on the other. We stand between bureaucratic terrorism on one side and revolutionary terrorism on the other. We are a centre party, and we expected the Honourable the Home Member, instead of ridiculing our Resolution as consisting of so many conflicting propositions, to have at any rate stated, "Here is an attempt at unity", because they have always said satirically, the glory or inglory of India has been not its unity but variety. Well, Sir, he might have found variety in our Resolution, but there is that unity in diversity which is the beauty of our country. Now, coming to the leader of the European Group, he said—I must conclude with this statement—that there was not a big protest—his words were "no great

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protest in Bombay". Sir, I have only to say that Sir Hugh Cocke reminded me of a huge ostrich. There was a huge ostrich in Bombay. On the day it arrived in Delhi it buried its head into the sand. That is the leader of the European Group. He does not see the volleys of protest nor hear the voices of thunder. If he says the sea of opinion in Bombay is smooth, I say let him not be deceived. Beneath its pacific surface, deep currents are at work and should he try conclusions with them, he will share no better fate than "Dame Partington". (Applause.)

Maulvi Muhammad Shafee Daoodi (Tirhut Division: Muhammadan): Sir, I cannot treat this House with rhetoric like my Honourable friend who has preceded me. I have risen to speak not because I thought that I am on this side of the Opposition and should oppose the Government, but I thought that at this critical juncture in the history of our country we should be failing in our duty if we did not advise the Government properly, truly and sincerely. When this Resolution was finally adopted, I was not present, but when I was free from my duty on the Working Committee of the all-India Moslem Conference, I went through the Resolution. When I read the recommendations which are contained at the end, Nos. 1, 2 and 3, I could not find anything which would cause embarrassment to the Government. I thought it was the mildest Resolution which one could put forward, and I thought and thought over this question as to whether there was anything objectionable from my point of view in supporting this Resolution and I came to the conclusion after a lot of thinking that if I did not support these recommendations I would be failing in my duty as a Member of this Assembly. I say that, Sir, with all the responsibility that I feel I have in this House both to my community as well as to my country. I could not understand the Honourable Sir James Crerar when he said that this was a Resolution which should be strenuously opposed. In the first clause of the recommendations, it is laid down that the Governor General in Council should place before the Assembly for its consideration such emergency Bills in substitution of the Ordinances as he may consider reasonable and necessary in order to enable this House to function effectively as intended by the Government of India Act. I do not think, Sir, that my Honourable friend, Sir James Crerar, would think of governing India by Ordinances all the time. There must be some limit to governance by Ordinances. What limit do you want? That is a difficult question for me to understand from the point of view you have just taken. I think that now is the time for you to recede your steps and cry a halt and take the House into your confidence and go on functioning as a constitutional Government in a constituted manner. I do not know what else the Members of this Assembly could do. What have they come here for? They have certainly come for criticising you, honestly. I do not believe in criticising for criticism's sake. I am not one of those men, but I certainly feel it my duty to tell you very plainly that if you are not now going to act according to the request contained in this clause, I do not know when you are going to do it. Supposing the Assembly is adjourned and you think then that the time is come for putting a stop to the repressive policy that is going on, will that be the proper treatment meted out to this House?

Mr. President: The Honourable Member should address the Chair.

Maulvi Muhammad Shafee Daoodi: Will that be proper for the Government? Certainly not. When the elected Members of this House brought into existence by the British Government come before you with a request of this nature, why should you not respond to it? Why don't you say, "Before the Assembly adjourns in March, the Government will certainly come with a Bill before the House". I do not think any Government should have any objection to this sort of request. I fail to understand really the mentality of the Government on this question.

Coming to the next point, the Resolution says:

> "In view of the grave happenings in the North-West Frontier Province, a committee elected by the non-official Members of the Assembly be forthwith appointed to enquire into the same, including the reported atrocities committed therein."

I am glad I have got an opportunity to thank Sir E. B. Howell for the very kind way in which he listened to my request and respected the Resolution of the Working Committee of the all-India Moslem Conference. I thought that everything would be right. The spirit in which he took me into his confidence was a guarantee that things would be right, and that is the reason why I was encouraged to go on this errand. When I landed after the Round Table Conference I went to Delhi rather direct from Bombay and made this request to Sir Evelyn Howell. It was very difficult for me to spend any time in Peshawar at that time, but the urgency of the matter and the way in which he dealt with the question encouraged me very much. Sir, you will be astonished to hear that when I crossed the bridge at Attock and went towards the other side, I found a different atmosphere prevailing. You could not find a man having a smile on his face. You would find that the people were terror stricken. When I was in the train, I found that the people who were travelling with me would whisper into my ears as to who I was, what I was going for and why I should endanger my life in the North-West Frontier Province. They were afraid to speak, and when I encouraged them, they would come forward and speak a few words, in such a way that the bystanders might not hear. I got some information from them. When I came to Nowshera, I got down from my carriage and walked on the platform and wanted to speak to some of those who were on the platform. But people would hesitate to come to a stranger; they would not like to come near me. But when I pressed myself, I came close to some young men and I found that they had a much more sorrowful story to tell. They said:

> "You have come at the right moment. We are stripped naked, beaten, practically to such a degree that we are not able to move about (*Cries of* "Shame, shame"), and then we are put into cold water."

(*An Honourable Member*: "This is co-operation!") Sir, believe me, I could not understand at that moment as to whether such things could be done by Englishmen or under the orders of Englishmen, or under the supervision of Englishmen in these days of the 20th century! I could not really believe that. (*Mr. B. Das*: "They did the same thing in Arabia during the War".) *Mr. Uppi Saheb Bahadur*: "And also in Malabar during the Moplah troubles.") Then, Sir, I proceeded, and when I came to Peshawar I spent long hours with my friends of all kinds—liberals, moderates, and extremists of both kinds, the extremists of the Loyalist Party and extremists of the (*An Honourable Member*: "Revolutionaries?")—not revolutionaries . . . . .

Mr. President: Order, order. Let the Honourable Member go on.

Maulvi Muhammad Shafee Daoodi: . . . . extremists on the Congress side; I met all of them. By the evening I could not come to any conclusion. I wondered why these people, so many of them of different sorts, were going to tell me stories which were inherently improbable? I thought I must go to the Chief Commissioner and seek an interview with him and find out whether he had got to say anything in regard to all these horrible things. When I went to him and talked to him—I tell you, Sir, that the Chief Commissioner, a frank man no doubt, treated me very nicely as a gentleman ("Hear, hear"); he told me all that he had to say, but I came to the conclusion after peeping into his mind, that he was trembling for fear of his subordinates. (*Some Honourable Members*: "Subordinates?", "The I. C. S. people?") He would agree with me on some points, but then he felt that if he acted up to my advice, the whole service would resign. ("Hear, hear.") (*An Honourable Member*: "There would be 'disobedience' on the part of the I. C. S.") It is not the I. C. S. people so much; very few I. C. S. people are there in the Frontier. I found it was the military people who were ruling the country to all intents and purposes. Except for Mr. Best, who, I think, is in the I. C. S. and a very courteous man, the rest were mostly military men. I am not complaining of their treatment towards me; they were very courteous no doubt, but, then, when the question of action came, they put forward all sorts of difficulties before me. I told them, "Now that the Government have announced an equal status for the Frontier, you ought to change your mentality outright. With the mentality you are having at the present moment, you cannot work the reforms." I think I convinced them, because they did admit my contention that, with this mentality, the reforms cannot be worked, but I do not know whether the Government are going to listen to this experience of mine. As I find Mr. President is looking at the clock, I think . . . . .

Mr. President: You have one minute more.

Maulvi Muhammad Shafee Daoodi: I would request the Government to listen to my submission and feel for themselves whether they can carry out the reforms which the Premier has announced with the agency of the men who are on the spot. ("Hear, hear.") I am dead certain that you cannot work out the reforms, Sir, with the men on the spot. ("Hear, hear.") They will *not* work the reforms, they will not allow them to come into operation. ("Hear, hear.") They would allow their own men, their own creatures to come in and rule the province in their own sweet way,—and not in the way which the new constitution calls for. That, Sir, is the conclusion to which I have come. If then the Government are sincere, the test is here. The Honourable Sir James Crerar said, "We want construction". I would suggest, if he wants to construct and sincerely wants to construct, Government should put in such men there as really want to re-construct according to the new constitution. Sir, the men who are there cannot do it. ("Hear, hear.") I am sure they cannot do it; and if you persist in your course, the only conclusion to which we can come is that you do not want to re-construct the province according to the announcement. ("Hear, hear.") There is no other conclusion; and I am sure I am not only speaking for myself, I am speaking here for the whole of the Muslim community ("Hear,

hear.") I should say rather for the whole country ("Hear, hear"), because on this question the whole country is now united; it may not have been at one before, but now they are all one.

Mr. President: The Honourable Member's time is up.

Maulvi Muhammad Shafee Daoodi: I am very sorry, I shall finish in one minute. Whatever I have told you now, Sir, is, mark you, much less than what my community as a whole feels on this question. My community wants to go far ahead of this. I myself do not want to go further and therefore I confine myself to what I have put forward.

Pandit Ram Krishna Jha (Darbhanga *cum* Saran: Non-Muhammadan): Sir, I rise to support this motion. Sir, I may say at once that I am not a Congress man. I have never been so in my life. But the present situation is such that it casts a duty even upon a man of my mentality to tell Government plainly and frankly what men of my mentality even think of the situation. I do not like to apportion the blame between the Government and the Congress. The fight is on, and it must be ended. The question is, how are you going to end it? The Government want to end it by *lathi* charges and Ordinances and by bayonets if possible. Now, are the Government likely to succeed in this? My own belief is that this method must fail sooner or later, and the Government will have to think of something else. Now whether the Government will continue their present methods or end them, one thing is certain, that they are not going to have the co-operation even of neutral people ("Hear, hear"—Laughter) if the present impasse continues; and a time will come when the Government will find that even the small support which they can get from men of moderate mentality, even that support has vanished. ("Hear, hear.") Now, Sir, the Congress movement is undoubtedly a movement for the political advancement of the country. The Congress wants self-government, and there is not a single Indian here who does not want it. The question is as to the method which a particular individual would like to adopt. But the fact remains that everyone is anxious for self-government. The next question is whether the Government are going to give us self-government. Sir, the first instalment of self-government is by these *lathi* charges. Now, as regards the terrorist movement, no one in this country likes it. The Congress has denounced it, Mahatma Gandhi has denounced it, and I do not think there is any man with the least political insight who can say that anything will come out of this movement. But the fact remains that the terrorists are there. How are you going to end them? Are the Government going to end them by Ordinances? I submit, Sir, that the Government will fail miserably in this attempt. One thing, however, which the Government can do is this. Let them believe that they are now going to have a popular form of government, and the moment they so believe, the movement will come to an end. But as long as the Government do not allow them to believe this, and as long as they go on governing the country in this irresponsible fashion, you may rest assured this movement is not going to end, in spite of any number of Ordinances that may be promulgated. Therefore, the remedy lies in the Government's own hands. The moment they realise that the young India would now be under a popular Government and that she is going to have it soon you will see an end of this terrorist movement. But until such time as Government do not give this assurance, the movement is bound to continue notwithstanding the Ordinances. The only remedy, therefore, that I can suggest, and which I think will end this terrorist movement, is that the

[Pandit Ram Krishna Jha.]

Government should concede responsibility at the centre. As long as they do not do it, and as long as they are talking of safeguards and are appointing Committees, the movement is bound to continue. It is maintained in many responsible quarters that these Committees are meant only to bide time; they are meant only to digress the attention of the public from any fierce attack upon the Government. The people have now come to realise what is meant by these tactics and unless the Government are more sincere in their actions, I am afraid no number of Committees and Commissions will help them in this matter. I therefore submit that the only way to end this state of affairs is to try to give responsibility at the centre as early as possible. The moment the Government do it, they will see the end of all troubles. But as long as they do not do it, the trouble will continue. It does not matter whether they promulgate Ordinances or not.

As regards the merits of the Resolution itself, I see really no harm in accepting it. In spite of the fact that the Government have constituted this Assembly, they go on promulgating the Ordinances and when asked to give this House an opportunity of testing the merits of these Ordinances, they decline to do it. In that case the safest course to adopt would be to dissolve this Assembly *sine die* till such time as this Assembly can be of any use to them. If they do not do that, I submit that it is a sheer waste of public money, particularly in these days of retrenchment, to call this Assembly. In fact, a good many persons have asked me as to why the November session was held if the Government were going to certify the whole Bill in two minutes time after it was thrown out by the Assembly? Why were all the Members assembled from all parts of India, which cost the public 2½ lakhs of rupees? Members were put to much inconvenience also. If they wanted to certify the Finance Bill, it could have been done in Simla as well. If the Government wish to rule the country in this fashion, then the best course would be to dissolve this Assembly at once. They can then go on ruling the country by means of Ordinances if they so prefer. The moment they decide not to rule by means of Ordinances, we will come back. We will be willing even then to come back. You know that the Congress did not want us to come, still we have come. As I told you at the very outset of my speech, I am a man of most moderate mentality. So, even if you dissolve the Assembly now and summon us afterwards and say that the Government are not now going to rule us by Ordinances, we will be willing to come back. But till then, I submit it is no use continuing this Assembly. With these remarks, Sir, I support the Resolution.

Mr. A. Hoon (Allahabad and Jhansi Division: Non-Muhammadan Rural): Sir, the Resolution as it stands before this House has got two parts. The first part I would like to call criticism and the second suggestion. Sir, the Honourable the Home Member very lightly dealt with the whole of this Resolution. He said he could not find any material in the very learned speech of Sir Hari Singh Gour as to what is the real criticism that can be levelled against the ordinances which have been promulgated by the Government. I submit the learned Home Member probably did not go through the different parts of the Resolution which is now before the House. If he had done so he would have himself come to the conclusion that the Resolution is most moderately and reasonably worded and that there is a real grievance on the side of the people as far as the working of the ordinances is concerned. The very harrowing tale, which

Maulvi Shafee Daoodi has told us as to what is happening on the Frontier, requires no further explanation. Maulvi Shafee Daoodi has only told us that the people whom he met could not tell anything out of fear. He has not told us what are the real facts behind this silence, and I submit that if the case is such it appears that enormous atrocities must have been committed and that people must have been brought to that plight where they dare not open their mouths even in a moving railway train and to a gentle pacifist of the type of Maulvi Shafee Daoodi. I submit, Sir, that the story that he has told us, although it does not give us the details, is so full of eloquence that nothing need further be said as to what is happening on the Frontier. We want the Treasury Benches to tell us what is the condition of affairs on the Frontier at this time. It is for them to tell us what is happening there now.

Coming down a little lower, to the province from which I come, the Home Member has said that the Congress has caused a breach of the pact and that they are not responsible for any breach. I respectfully submit that this is not correct from the information that I have been able to gather in this matter. Sir, I put a very simple proposition to the House. It is this. "A" comes to "B" and says "I want to get Rs. 100 out of you which you owe me". "B" says with all the humility at his command "I have not got Rs. 100". "A" says "You must pay me". "B" says "I cannot pay you". A kind person comes in and he says "All right let us see what can be done". They both begin to discuss the matter with this intervener. He says "I think this man, *i.e.*, 'B' cannot pay you more than Rs. 5" and the negotiations are broken off. Soon after that, the negotiations are taken up again and then the man who had to pay and his friend both come and say "We again tell you with great respect that 'B' cannot pay you more than Rs. 5". In the meantime, "A" makes arrangements to realise Rs. 100 from "B" by force. I put it to the House, is that justice? Who has broken the pact in this case? This is the true picture of what has happened in the United Provinces. I do not know on what facts the learned Home Member has made the statement that the breach has been committed by the Congress. I am not cognisant as to how the alleged breaches have been committed in other parts of the country but I am speaking of the province to which I belong and I speak with feelings on this subject because I represent a rural constituency and Allahabad is a part of it.

Then, Sir, coming to the statement that the ordinances are all worked with great moderation and with great sympathy and discipline, I would like to put certain facts before the House. I come from the city of Cawnpore which is really the centre of trade in Northern India. I dare not open my mouth with regard to details of the cases because they are mostly *sub judice*. I shall put before the House only one fact according to which you will see whether the ordinances are being worked with moderation or otherwise. If there is a *hartal*, the Government starts prosecuting the people who close their shops, no matter whether they have any connection with the Congress or not. I submit this is not working the ordinances with moderation. People who never had anything to do with the Congress, who never paid any subscription to the Congress close their shops because the markets are closed. An elderly man is arrested because he is alleged to have closed his shop in obedience to the Congress. He says, "No. I closed it because I was feeling nervous; I closed it because my servants refused to work through fear and the whole market was closed". I wish to draw the attention of the Honourable the

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[Mr. A. Hoon.]

Home Member to this point and ask whether it is the intention of the ordinances that in such cases men should be locked up and bail refused to them simply because the offence has been made non-bailable. You cannot say that you are working the ordinances with moderation. That is one point which requires the very immediate consideration of the Government. Now I am told that if Government catch hold of a man, for closing his shop they want him to apologise. If a man did not close his shop in obedience to the Congress, if the man had nothing to do with the Congress even then you want him to apologise for a thing which he had not done. If apologies are forced like that, you will be depriving people of the little self-respect that they possess in these days.

Coming further to the various incidents which have been narrated as to the happenings in Madras, I would not say anything about them. There is no reason why this House should not have been taken into their confidence when the Government wanted to promulgate these ordinances. It is very easy to have a November Session when you want money. The Government do not send for us when they want to have all these extraordinary powers. I submit that if they had taken this House into their confidence, certainly most of us would not have been speaking in the way we have been doing, and probably there would have been more help given to the Government than we are capable of giving today. My Honourable friend from the European Group has given us a note of warning and I should not be surprised if he is speaking the mind of the Treasury Benches when he says that special powers could not be had from this Assembly. I submit with great respect that we know what you think of us. We want you to be true to yourself. Why not dissolve this Assembly and do away with the farce? I have already sent in a Resolution yesterday something to the effect that considering that the country is now being ruled entirely by ordinances and the proposal is still to rule it still further by ordinances and considering that we threw out the Finance Bill and you certified it, what is the use of carrying on this farce especially when we are all over-taxed? I have also made a practical suggestion. If the Law Officers of the Crown think that some farce must be gone through before they can accomplish their work, why not have our votes taken by proxy and finished with it? If you have made up your mind to do something, you do exactly what you like, but please do not penalise the public by saddling them with the further expenses of holding sessions of the Assembly which are nothing but a farce as you are trying to prove them to be.

Mr. A. H. Ghuznavi (Dacca *cum* Mymensingh: Muhammadan Rural): Then do not attend them yourself.

Mr. A. Hoon: My Honourable friend, whose ideas are well known to most of us is making a very clever suggestion. I do not want to waste the money of the public on myself but I do not want you to attend and get money also. There is no reason to believe that the ordinances are being worked with moderation or with caution. Sometimes, Sir a taunt is hurled at our heads by certain friends who are in this House. They say, "It is very easy for you to give advice to the Government, why don't you do some useful work outside and advise the Congress?". I submit that I am not a Congressman. The Congress has not sent me to this House. The Congress has not sent up my name to the All-India Congress

Committee. I am here by my right and I am entitled to advise the Government. I am a Member of this House, and I must tell the Government what I think about them, whether they like it or not. Why do you taunt us like this? We will go on doing our duty towards you irrespective of the fact whether you listen to our advice or not.

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 in the Chair.

Mr. Muhammad Anwar-ul-Azim (Chittagong Division: Muhammadan Rural): Mr. President, I am obliged to you for this opportunity that has been afforded to me to speak on this important Resolution. I have listened with a very great amount of interest to what the Leader of the Nationalist Party had to say in support of the Resolution which was supplied to us about three or four days ago. He has, in the words of the Honourable the Home Member, tried to dovetail many ideas into an apparently simple compact Resolution and has sought for three remedies with the help of the Members of the Assembly. The first is that the Government would have been well advised to bring in certain measures by which the present situation in the country could have been met and for that should have sought the help of the Assembly,—secondly, that there should be a small elected committee of this House to inquire into the troubles in the frontier; and thirdly, that all shades of political opinion in this country should be invited to take their due part in the formation of the coming reforms. Mr. President, these are all old stories threshed out a hundred and one times on the floor of this House, in the country, in the press and on the platform also. Of course, I do not know what is the particular purpose for which this Resolution has been brought up by such an Honourable Member as Sir Hari Singh Gour. If it is for drawing the attention of the Government of India to certain things which are happening in the country, nobody need quarrel with him. But it seems to me that from the body of the Resolution itself it is very difficult for a member of the legal profession like myself to find something specific for which these remedies are being sought. In the first place, with regard to his first prayer, I should say that legislation which has been put into operation by means of Ordinances by the Governor General is not a permanent measure. It is only a temporary measure and, if it is allowed to run a smooth course, might run up to six months only. Reference has been made by Sir Hari Singh Gour to that particular section of the Government of India Act, section 72. I do not know that anybody has taken away or any legislation has taken away the import or the force of section 72 of the Government of India Act. If that Act is not repealed and is still in existence on the Statute-book, I do not think it will be of much benefit to quarrel with the Governor General for bringing in these Ordinances. The Honourable the Home Member has tried to justify his case on many specific instances of which he has quoted some. I know as an East Bengal man what is happening in my part. I do not say that Ordinances are a very good thing, but what is left to a responsible Government if they are faced with eventualities like those that are happening in my part of the country? You

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have disturbances of all kinds; you have menacing demonstrations and you have open challenges both on the platform and in the press that law and order do not mean anything. If that is a fact,—and I am certain my friends on my right will not challenge that,—then what remedy was left to the Government of India and the Provincial Governments but to take this action? Thus far for the necessities.

Coming to the speech of my esteemed friend Mr. Shafee Daoodi, who has tried to speak on behalf of the Mussalmans of India, I do not know what authority he had to speak on behalf of all the Mussalmans and all shades of political opinion among them. But I share this much of his view, that perhaps things are not very happy as they exist now on the frontier. I have many friends on the frontier and I know quite a large part of it rather intimately. If the story which has been depicted to the House by my Honourable friend, who is also a member of the Round Table Conference, be true, then I must say that things are not perhaps going on there as peacefully as they should in that small province. I also join with him in making a request to the Government of India that if they mean business squarely, it will not be wrong, when giving reforms to the people there, to see that the angle of vision of the officers in that particular part should undergo some change. And if that is done, Mr. President, my firm belief is that the reforms will work very nicely there.

The history attached to this Resolution is also one which should be known to our friends in all parts of the House. This Resolution in a very verbose way has tried to ask Government that perhaps it was time for Government to take some of our friends on the right as their counsellors and take them as mediators between the extreme wing of the Congress and the Government of India. If that is the underlying policy of this Resolution, then I think that might be explored and perhaps Government would be well advised to explore the possibilities on those lines. But if it is for justifying the actions of the extreme wing of the Congress and also at the same time justifying the no-rent campaign which has been started under the auspices of the Congress, I for one will not lend my support at least to that part of the Resolution. All of us know what is happening in the United Provinces and what is happening in our part of the country. The economic condition has passed to such a pitch that the innocent masses living in the country do not require to be told how best to flout authority. One little spark is sufficient to ignite a hundred hearths and homes.

Lastly, I would like to make my position clear. I am an elected Member representing a mass of eight million people living in the South Eastern part of Bengal; and if I am to go and tell them not to pay their rents to the zamindar or their revenues, for which there is a contract between them and the Government, what the condition will be one can easily imagine. I was surprised to hear from a friend from Patna that they wanted to dictate some terms to the Government in this way, that if central responsibility was started tomorrow perhaps the terrorist menace will die just like the morning dew. He has my full sympathy, and I am sure if he had the authority from the Working Committee of the Congress or Mr. Gandhi for this, the Government of India are not such a bad body as they are depicted to be that they will not consider it very seriously.

The Honourable the Home Member has quoted certain passages which have come into his possession with regard to the aims and aspirations of the Indian National Congress. If they are broadcast through our medium in this Assembly and find a place in newspapers and news sheets, licensed and unlicensed all over the country, and spread to the bazars and the countryside, one can easily imagine what will be the impression created in the minds of those who have never seen the Assembly, nor known the Home Member or my friend Sir Hari Singh Gour. If the Congress and their representatives here were in a position to say clearly and definitely "Thus far and no further are we willing to go and able to deliver the goods", I am certain any responsible government will take a serious view of that representation. A shilly-shally policy is positively wrong.

With regard to the last prayer contained in the Resolution, that the Governor General should secure the co-operation of the Congress and the Muslim and Hindu organisations, including the depressed classes, in the inauguration of the new constitution for India, everybody knows that the whole constitution is in the melting pot; and what stops our friends of the Congress from coming in large numbers into the deliberations of the deliberative committees of the Government of India?

An Honourable Member: They are all in jail.

Mr. Anwar-ul-Azim: If my friends on the right meant business, they would have seen that the Congress did not dictate menacing terms to the Government of India, saying "Unless certain proposals of ours are accepted *in toto* we will not accede to any compromise". Mr. President, that is hardly a spirit of compromise.

Lastly, as one who has got a vast stake in the country, both as a citizen and also as a middle-sized landlord and a lawyer, I do not think I will advise my colleagues on this side to support this Resolution.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, at one time I thought that I should not waste the time of this House by making any speech today. But as I happen to come from that unhappy province where the Ordinances are in full swing, I thought I should be false to myself, false to my constituency and false to my country if I did not speak out what I feel about these Ordinances and the inhuman and brutal manner in which they are being worked in Bengal. The previous speaker claims to have come from the same province; but our angles of vision are quite different. It is an unfortunate tragedy in the history of Indian nationalism that there should always be among us some who prize more a few ribbons to stick to their coats or a few titles to satisfy their vanity than the welfare of their motherland. I wish I could restrain myself and use sober language as would appeal to my friends opposite, and I shall attempt to do so. At the same time I want to declare that it is far from my intention to embarrass the Government in any way in its present situation, which is of their own seeking.

An Honourable Member: Thank you.

Mr. Amar Nath Dutt: You need not thank me; thanks should come from those alien people whose interest is involved in the upkeep of their Empire in India. It is not for you to thank.

An Honourable Member: I am sorry to have thanked you.

Mr. Amar Nath Dutt: My Honourable friend, Sir James Crerar, has not been pleased to say much about the happenings in Bengal—he just made a passing reference to them. I may tell him that I have carefully perused the literature that has been supplied to us for our delectation, and I have not found in that any facts or circumstances which justify the introduction of a reign of terror in my unhappy province. Bengal has been the *bete noir* of the official world in India. Bengal must make *prayaschitta* for what it did in the year 1757. It was Bengal which brought, in the place of the Muhammadan rulers, the rulers of the present day with the help of such people from other provinces as Umi Chand and others. For up till now we never dreamt that Bengal could be ruled in the way in which the British Government want to rule it. There is a negation of law and order, negation of justice, negation of everything in Bengal at the present moment. Honourable Members do not know, the outside world does not know, what is happening in Bengal today, but I am sure that the Honourable the Home Member is in possession of facts which, as a true Englishman, he must be ashamed of. The outside world does not know what is happening in Bengal, because what is happening there is not permitted to be reported in newspapers. There is a strict censorship, and even a certain memorial addressed to H. E. the Governor of the Province was not allowed to be printed in the press of the province, although the same was published in the press of other provinces. Whenever there is any *lathi* charge, my Honourable friend opposite would call it a "mild" *lathi* charge. You do not know what is really happening in Bengal at the present moment, living as you do far away from that province. Now, a few favoured people, I mean favoured by the gods, coming from far off and distant lands in Europe, can alone speak out what they feel in their minds, and I do not think that any one who knows anything about the real happenings in Bengal today can support Government.

I may tell the House frankly that we have no desire to promote disorder, and the very fact that we are here to take part in such important legislative measures which are to come off the day after tomorrow as the Amendment of the Indian Companies' Act and other Acts, we who felt it our duty to leave our homes and be here feel that our responsibility is so great that we have left our homes in order to be present here and take part in the amendment of the Companies' Act and such other legislative measures. We do not believe in the cult of the bomb or of the revolutionaries. At the same time you should realise our position; we may differ from others in certain matters, but that they should be oppressed and tyrannised or jailed without trial is a procedure which we cannot support from this side of the House. If Sir James Crerar or Sir George Rainy had to be deported under the Swaraj Government, even if they had not committed any crime, I for one would oppose it. ("Hear, Hear" *from the Swarajist Benches.*) So when we say that there has been denial of trial, denial of justice to these Congressmen or the so-called revolutionaries, we should not be regarded as believers in their creed, but by your actions you are driving the country to sullen despair, and I know of numerous people who never took any interest in politics in far off villages are losing all respect for your Government. And why? My friend has been pleased to refer to the present economic distress. Now, a province which has survived the famine of 1770 which is called in Bengal *Chiattarer Manwanter* is not a province which will take to revolutionary methods simply because there has been a fall in the prices of foodstuffs. And how many people do you count among these revolutionaries from amongst the agriculturists?

That is not the way to govern. There is the Indian Penal Code which contains all the provisions; there is the all-embracing section 144 of the Criminal Procedure Code,—that iron hand in a velvet glove—by which you can punish any one whose mischievous activities are against the preservation of law and order. But instead of doing that, if you have recourse to passing Ordinances under which nobody feels safe or secure, I think you are driving the country mad, you are dragging the country to ruin, and by such means you become the worst instigators to break all law and order in the country. After all, we have certainly a much greater stake in the country than any of you can claim to have. You have only a few years' interest here in trade and then go away, or perhaps you will serve here for a few years and then retire in England. But here we have lived in this country from time immemorial and we hope to live unless the Ordinances wipe us all out of existence.

Sir, a critical examination of the state of affairs in Bengal today reveals that matters have reached a stage at which all interests are required to bring a dispassionate and reasoned judgment to bear upon the situation, with minds untrammelled by either thoughts of reprisal or a false sense of prestige. The different interests are required to combine with singleness of purpose and in mutual confidence if normal conditions are to be restored. Precipitate action conceived in panic is bound to prove disastrous, and only soberly conceived measures may be expected to yield results beneficial to various interests, commercial and otherwise, in the province. The highest degree of moral courage is indeed called for, such as will not hesitate to abandon hasty, ill-chosen courses for fundamentally right and sound measures. This plea for clear thinking and statesmanlike action is hardly a novel one but needs repetition and emphasis at this juncture because, as it seems clear to me, the measures instituted by Government have been conceived under a misconception and likewise betray a lack of adequate realisation of consequences.

An Honourable Member: Whom are you quoting from?

Mr. Amar Nath Dutt: I am quoting from certain observations made in a memorial submitted to H. E. the Governor of Bengal to which I made a reference earlier in my speech, and which observations were not allowed to be printed, although such sober and moderate language was employed in the petition.

Mr. S. C. Mitra: Was it also censored?

Mr. Amar Nath Dutt: Yes, it was:

"I am at one with His Excellency the Governor of Bengal in his anxiety for a condition of 'ordered peace in which alone commerce and industry and reform can be satisfactorily carried out'. But while agreeing with His Excellency as to the objective, I am firmly convinced that plethora of Ordinances of the most drastic and arbitrary nature can only have exactly the opposite effect, and in place of 'ordered peace', we see but the prospects of a 'peace of the desert'. Strongly as I am convinced about this, the consequence of these measures will be to create a condition of panic and unsettlement leading to widespread suspension of business activities. . . . ."

Mr. President: The Honourable Member is reading out a long extract. I must remind him that he has got only two minutes more.

Mr. Amar Nath Dutt: Even such moderate language has been censored I have hardly time enough to discuss the provisions of the Ordinances, but the methods which are employed to work these Ordinances are sickening, and certainly if the Honourable the Home Member has not forgotten

[Mr. Amar Nath Dutt.]

himself, as an Englishman, the fundamental rights and liberties of a subject, I think he will agree with me that these Ordinances do away with the rights and privileges of citizens.

Mr. J. C. French (Bengal: Nominated Official): Sir, the reason why I have decided to participate in this debate is that I have some personal experience of the subject under discussion. At the end of the session that was held at this time last year I arrived in Calcutta. In the morning I saw the news that Mr. Peddie had been shot, and the same evening I received a telegram from the Government of Bengal ordering me to Midnapore at once. The next evening I took charge of the district. Mr. Peddie had been buried that morning. Sir, what situation did I find in Midnapore? This was one month after Lord Irwin's pact with Mr. Gandhi, under which there was a truce to any hostilities on the Congress side, and the Government relaxed all measures against it. I found that as soon as the truce was announced all over the Midnapore District they put up triumphal arches, "Through blood we won. Through blood we won". This was followed by Mr. Peddie's murder. During my whole time in the district I found that the Congress was organising. First of all they started with courts, arbitration courts. The Tamluk Sub-Division was singularly well organised. They organised a number of courts all over the Sub-Division, and in Tamluk itself an appeal court. They also started sketching out a scheme of police. They had their own Superintendent of Police; they had their thana officers; and they exerted pressure on people to attend these courts. Now, Mr. President, it was very difficult to deal with this organisation, because it was always done under the name of the Congress. Had it not been for the name of the Congress, they could have been dealt with under the ordinary law, but there was this pact. Under the cover of this pact, they were forming a dual administration, they were organising the whole country. Not only that, but they started picketing excise shops; they started pushing on the boycott against English goods. They commenced organising a militia which drilled with *lathis* and patrolled the villages. This was what they did in Midnapore. In Chittagong the system was rather different. In Chittagong the revolutionaries finally succeeded in terrorising the whole country. Now, it may be said as regards the organisation at Midnapore that, although all this was done by the Congress it is impossible to connect the revolutionaries with them. Well, Mr. President, I should like to read out to this House a few dates. On March 25th, the Calcutta Corporation adjourned as a mark of respect to the memory of Bhagat Singh who had just been executed. On April 7th, Mr. Peddie was murdered. On April 8th, Mr. Subash Chandra Bose at Amritsar called for thousands of Bhagat Singhs. On July the 8th, the Calcutta Corporation adjourned as a mark of respect for Dinesh Gupta who was executed for his share in the Writers' Buildings murder—the murder of Colonel Simpson. Mr. Subash Chandra Bose called on the members of the Corporation to pay respect to the courage and devotion of this young man in the pursuit of his ideals. At the same time Mr. Sen Gupta declared that a believer in violence is greater than Mr. Gandhi in self-sacrifice. Three weeks later Mr. Garlick was murdered in his court in Alipore. On December 6th, at the Provincial Conference in Berhampore there were appeals made that the people of Bengal should prepare for the coming fight. Mr. Subash Chandra Bose called on the women to be ready as perhaps there would not be enough men. That was on December 8th. On December 24th, Mr. Stevens in Comilla was

murdered by two women. I ask any Member of this House if he can deny that the Congress movement in Bengal was revolutionary; if so, these dates speak for themselves.

Mr. President, my Honourable friend Sir Hari Singh Gour said that he had no sympathy with the terrorists. Then, I should ask him to translate it from words into action by withdrawing his Resolution. Mr. Amar Nath Dutt also said that he had no sympathy with the terrorists but that he could find no grounds for the Ordinances. Sir, I have endeavoured to give the facts as they are and supply him with some grounds.

I do not wish to detain the House any longer as I know that there are many other Honourable Members who wish to speak. But in justification for the action of the Government of Bengal in bringing forth these Ordinances I might quote an old quotation, an old tag, Mr. President, but like many of these old tags it expresses the truth better than the most brilliant modern eloquence, *salus populi suprema lex*,—"The nation's safety is the highest law". (Applause.)

Diwan Bahadur A. Ramaswami Mudaliar (Madras City: Non-Muhammadan Urban): Mr. President, I ought to have been a little more careful, a little more hesitant perhaps and not have followed so soon my Honourable friend Mr. French who has just drawn a blood curdling picture of events in Bengal. If I were not so sure of my own position, if I were not certain that I knew how far I was a constitutionalist and how far I was prepared to work with Government in all constitutional ways, if speaking not merely for myself but on behalf of every specific Congressman and non-Congressman in my own province I were not perfectly certain that not the most finicky critic in that part of the House could say a word about the terrorist movement so far as Madras is concerned, I personally would have adopted perhaps the counsel of discretion and not followed so soon after my Honourable friend over there. But conscious as I am of these facts, I have no hesitation whatsoever in saying that my Honourable friend has very cleverly—and I compliment the back-benchers on the Treasury Benches, who are now taking part in the debate—drawn this red herring across the trail. What has this Resolution to do with the terrorist movement in Bengal, I ask? And if there is one portion of the Resolution which condemns it, which strengthens his position and my position, which perhaps the Honourable Sir James Crerar, speaking of some portion of the Resolution, said the Government was agreed upon, it was that portion where in unmistakable language the Resolution condemned openly, unreservedly, without any sort of mental reservation, the terrorist movement in Bengal. I therefore want to remove from my Honourable friends any apprehension, any misapprehension, that by voting for this Resolution they directly or indirectly, by suggestion, by implication, inference, allusion, and all those delightful words which my Honourable friend Sir Lancelot Graham has put in that delightful ordinance,—by any of those means they would be associating themselves with the terrorist movement or with any of those anarchical crimes—most unfortunate, severely to be condemned by every honest Indian, not merely by Europeans —which are unfortunately sometimes occurring and are sometimes a feature of Bengal. Sir, I shall leave aside my Honourable friend over there. It was my misfortune and not my fault that I was not present in the House to listen to the speech of my Honourable friend Sir James Crerar. I have however with due diligence tried to acquaint myself with as much of his speech as I could, and I thought that my Honourable

[Diwan Bahadur A. Ramaswami Mudaliar.]

friend was unnecessarily perturbed over what he termed the composite character of this Resolution. To use his own inimitable language, I thought he said that "it was a piece of mosaic curiously and intricately pieced and dove-tailed together". I should have thought that was a compliment to the Resolution, for I have yet to come across any æsthetic gentleman who complains against "a mosaic so curiously and so intricately pieced together and so finely dove-tailed". I wish I could say the same thing about the ordinances for which presumably my Honourable friend Sir James Crerar is responsible, that they are not merely a crazy, quilt a crude collection of all the rags and tags from antediluvian rules and regulations drawn from the history of all ages, but that they are also "a fine mosaic, curiously and intricately pieced together and finely dove-tailed". Sir, let me come to the Resolution itself. My Honourable friend suggested that there was no reason at all why there should be this censure on the Government, but that on the other hand he expected us to pass a vote of confidence in the Government. I, Sir, am prepared to pass any vote of confidence in the Government if my friend Sir James Crerar will agree to pass a vote of confidence in this Assembly of which he is as much an honoured Member as I am, but when there is this mentality that this House cannot be trusted, that nothing can be brought before this House, that we are a set of irresponsible people, that he will not have anything to do with us in sharing with us responsibility but will make merely fine perorations, I ask myself whether he is treating us in the same fair manner as he wants us to treat him. Do unto others as you would be done by, says an old old English proverb which my friend must have learnt in the days of his school, and I venture to appeal to him to bring back to his memory that proverb. What has my friend done? He gets ordinance after ordinance issued. I am not going to say anything on the merits of these ordinances at present. I shall come to that later, but I accept for the sake of argument that every one of those ordinances is necessary, that the conditions in this country, from Peshawar to Cape Comorin and from Shillong to Karachi are such that these ordinances should be simultaneously and in all their multiplicity in force. I ask him what has he done to take the Legislative Assembly into his confidence, to put on us that responsibility which is due to us as Members of this Legislature? My Honourable friend Mr. Shafee Daoodi spoke of the atmosphere which prevailed here and of the different atmosphere which prevailed the moment he crossed that little beautiful bridge at Attock. I know the bridge and something of that atmosphere, but I have a very much wider contrast to place before this House. What about the atmosphere that prevailed in St. James' Palace and what about the atmosphere that prevails in this huge capital of Delhi? We were honoured members of the Round Table Conference. We were respected for our moderation. An appeal was made for co-operation. Our co-operation was helpful. Repeated testimony has been given of that co-operation. I come back from England and I find my friend Sir Hugh Cocke saying, "Do not go before this Assembly with all these Regulations and these emergency Bills. We cannot possibly trust you. We do not know how you are likely to behave. We are the only wise men and we shall do what we like for your country, so that in the future the trust may be handed over to the Swaraj Government for which all of you are working". Is that treating us fairly? I ask him to recall to his memory the history of his own country. I do not want to go into all that can be said about the Pyms and Hampdens and Burkes and all the great men that shine out as the finest stars of the first magnitude in the political firmament of England, but I ask him whether he is fair to himself, whether he is fair to his position as an elected Member of this House when he says that this House shall not be seized of these very Bills and do its level best to give the Government the emergency powers that are required by the Government. It may suit my Honourable friend for the time being to say so, but I ask him whether he is doing his duty properly as an elected Member if he were to pass this self-denying ordinance that he is unfit to exercise that responsibility. The functions of this House under the present constitution are two-fold. They are in the first place legislative, and in the second place taxative. We have no control over the actual detailed administration of the country. We cannot turn my Honourable friends out of office. We cannot replace them, but even in this restricted sphere, what have you done? Let the history of the two Finance Bills tell their own tale as to how the taxative powers of this House have been dealt with, and let the ordinances which have been repeatedly placed upon the Statute-book time after time tell their own tale. My Honourable friend Sir James Crerar appealed to us to have a vote of confidence in the Government passed. He is almost certain that that vote of confidence will be passed. I take it for granted that this Resolution will be thrown out, that the vote of confidence he has asked for will be passed. My Honourable friend does not see how he cuts the very ground from under his feet. If he can get a vote of confidence from this House, I ask Sir James Crerar what fear there is that this House will not pass that emergency legislation which we ask him to place before this House for its consideration? You cannot have it both ways. His Excellency appealed to us for co-operation. What is the sort of co-operation that we can give him? You say that we must be *functus officio* in regard to the very matter for which we are constituted. You do not give a chance to this Assembly to consider your demand in a reasonable way. My friend calls this Resolution a fine mosaic and says that he would, instead of accepting the Resolution, defeat it and thereby have a vote of confidence in the Government. I venture to challenge any non-official Member of the House to adopt the course suggested by my Honourable friend, for it will be committing political suicide, for any Member of the Assembly, to do it. There are only three recommendations, Mr. President, in the Resolution. The operative part of the Resolution is this and I want Honourable Members to concentrate their attention on it:

"This Assembly recommends to the Governor General in Council that he should place before the Assembly for its consideration such emergency Bills in substitution of the Ordinances as he may consider reasonable and necessary in order to enable this House to function effectively as intended by the Government of India Act."

Is that an unreasonble proposition? Do my European friends suggest that we are unreasonable in making this request? Has this

3 P. M. House not the right to ask that it shall function as the legislative machinery of the Government? What is their idea of the functions of this House? Are we to say that some Home Secretary or Legislative Secretary has got the monopoly of wisdom, that he could frame these ordinances out of his own single brain and that the collective wisdom of this House is of no consequence and no value whatsoever? If that is the position, then I can only endorse the suggestion that has been made by one of my friends, humorously perhaps but not without an atom of truth about it—the sooner this House is dissolved the better for all concerned.

[Diwan Bahadur A. Ramaswami Mudaliar.]

I ask for co-operation; I ask for political bread, and Sir James Crerar gives us stones. Even now there is an opportunity for the Leader of the House in his speech to suggest that this House will be taken into confidence, and that an opportunity will be given to Members like myself who are against the civil disobedience movement. In my own party in Madras we have condemned it repeatedly. During the non-co-operation days we passed measure after measure and placed them on the Statute-book. His Excellency Lord Willingdon is today the Viceroy. He was then the Governor of Madras. Let my Honourable friend Sir James Crerar go and consult his chief and ask him for his experiences of the Madras Legislative Council. In 1921 and 1922 we placed many measures on the Statute-book to fight the non-co-operation movement, which was as dangerous as the civil disobedience movement today. You do not give us a chance to do what we feel right by our country by our countrymen, by those who are flesh of our flesh and bone of our bone. You do what you like and then come here and say, "If you are not with us, you are against us. If you do not say ditto to everything that we do, then you are certainly considered to be our opponents ".

Mr. A. H. Ghuznavi: This is not the Madras Council.

Diwan Bahadur A. Ramaswami Mudaliar: The Bengal Council is not very different from the Madras Council. My Honourable friend comes from Bengal. I come from Madras. I can give the Government an assurance here and now that so far as I am concerned, I am prepared to consider, without any sort of reservation and prejudice or bias, any measure that my Honourable friend may bring forward. I have not the time unfortunately to go into other details, but my friends will find that every one of these recommendations is as reasonable as the first which I have been developing. I ask this House, unless it wants to commit political suicide, unless it wants to be the ridicule of the whole country and of foreign countries as well, unless this Parliament of India, as it is proudly called, is to go down to history as a sort of absolutely innocuous and absolutely invertebrate House that will not assert its own dignity—not for the sake of the Congress, not for the sake of the civil disobedience movement but rather against the Congress and in fighting the civil disobedience movement,—then I exhort this House to ask for those powers which you must legitimately exercise so that this movement in the country may be fought by your own countrymen and not by the alien gentlemen sitting there, acting as they please. (Loud Applause.)

Mr. Arthur Moore (Bengal: European): Sir, it was perhaps natural that the Honourable the Leader of the Opposition should confine himself largely to legal technicalities. But towards the end of his speech he did attempt to create a general impression that nobody's life, including his own I understood, was safe from the operations of the law, that terrible things were happening in the provinces and that atrocities were being perpetrated upon inoffensive Indian citizens. Now I expected that some of those who spoke subsequently would attempt to fill in the details of that general picture and would give us at least some instances. We have had two, one from Madras and one from the North West Frontier Province. And what was my astonishment, in hearing a Member tell us about atrocities in Madras, at discovering that the ground of complaint was that

the hose was turned upon a Scotchman, and to make matters worse, this Scotchman was a Scotchman who was very well connected; he was a relative of a relative of a peer of the realm! (Laughter.) Then, in regard to the Frontier, I recognize that my friend, Maulvi Shafee Daoodi, has taken the trouble to conduct a personal investigation. (*An Honourable Member*: "He was not allowed to go wherever he pleased.") Therefore we hoped to hear from him something precise. Now the gravamen of the only charge of atrocity was that cold water was applied. I do not know whether the suggestion was that in Madras as well as in the Frontier Province, if there had been hot water in the hose, things would have been any better. But it does strike me as a little odd that so much should have been made of one point both in regard to the case of the Scotchman, on whom the hose was turned, and also with regard to the ladies. The point is repeatedly made that what are called people of highly respectable families, when they break the law, are treated like other people; and it seems to me very curious that the Opposition should attack the Government because, in the discharge of their duties, the law shows itself no respecter of persons.

Mr. K. C. Neogy: Whose law? Was that law passed by this House? Whose law?

Mr. Arthur Moore: Never mind where the law comes from. (*Some Honourable Members*: "Oh, Oh!")

Mr. K. C. Neogy: The *Statesman's* law. (Laughter.)

Mr. Arthur Moore: I think the Honourable Member is obviously trying to evade the point. The point is that a law . . . (*An Honourable Member*: "Which law?") It does not suit the Honourable Member to listen to my argument. (*Some Honourable Members*: "There is no argument. Define the law.") The Honourable Member professes to be a democrat, but he wishes the law to be a respecter of persons. That is the point.

Diwan Bahadur A. Ramaswami Mudaliar: Every law respects sex.

Mr. Arthur Moore: Does the Honourable Member suggest that members of the female sex should be allowed to break the law with impunity?

Diwan Bahadur A. Ramaswami Mudaliar: Nothing of the sort, but are not there laws which make a distinction between sex and sex?

Mr. Arthur Moore: Well, Sir, I could not help feeling that if so much concern is exhibited in this House because the relative of an English peer has had the hose turned on him . . . . .

Mr. S. C. Mitra: Read some of these Ordinances.

Mr. Arthur Moore: And the gravamen of the charge is that he is well-connected, then I am afraid the outlook for the depressed classes (Laughter) when my friends opposite operate the governmental machine is not a very cheerful one. My Honourable friends say . . . . .

Mr. C. S. Ranga Iyer: I would ask my Honourable friend . . . . .

Mr. Arthur Moore: I would ask my Honourable friend not to interrupt me as my time is very short.

(Mr. C. S. Ranga Iyer rose to his feet.)

Mr. President: Order, order. The Honourable Member does not yield.

Mr. C. S. Ranga Iyer: I was suggesting a point of order, Sir. I should like to have your ruling whether, when an Honourable gentleman who is sitting on that side of the House has already started interrupting those on this side, it is not parliamentary for gentlemen sitting on this side of the House to just indulge in some reciprocity. (Laughter.)

Mr. President: I am sure the Honourable Member clearly realises that that is not a point of order. (Laughter.)

Mr. Arthur Moore: My Honourable friend, the Leader of the Opposition, made a good deal of play with Magna Charta and the fundamental rights of citizens. But I would ask him, in all seriousness, when citizens repudiate their fundamental duties, how can they preserve their fundamental rights? ("Hear, hear" *from the European Group Benches.*) And if we are going to get down to fundamentals, I do feel that, fundamentally, this is a contest of moral ideas. The fact is that the Congress and Mr. Gandhi believe still, unfortunately, in this doctrine of civil disobedience; that is to say, Mr. Gandhi believes that it is possible for organized masses, even without arms, to inflict so much injury and ruin upon those whom they wish to bring to terms, even though these latter possess superior physical force, that the material damage resulting, the financial loss, the unemployment, the starvation (*An Honourable Member*: "The starvation of Manchester?") which the Congress will be able to inflict will be so much greater than any loss that the non-co-operators can be made to suffer, that, in the end, he, Mr. Gandhi, is bound to defeat those whom he decides to attack, whether they represent the Government, or whether they represent some particular industry of which he disapproves. That is to say that the esssence of the doctrine is a belief in force, and a disbelief in the efficacy of "the golden rule" of doing unto others as you would that they should do unto you; a disbelief in the possibility of a cause winning on its merits, or by persuasion; a disbelief in reasonableness. Over and over again we have been told that Great Britain would never give up what she is not forced to give up. I remember, Sir, once in this House, when I asked what good the pursuit of this barren path of non-co-operation had ever done to India, the late Pandit Motilal Nehru made a very memorable speech in which he said that India had got to wrest self-government from Great Britain. (*An Honourable Member*: "Perfectly right.") And he made it perfectly clear that, if India had self-government and were in a similar position in relation to another country, if India could control another country and its markets, then Indians would not be such fools as to throw away that advantage, and so he refused on these grounds to believe that Great Britain would. Therefore I say that force is the essence of the doctrine; it is a belief that . . . . .

Mr. C. S. Ranga Iyer: Face it out.

Mr. President: May I ask the Honourable Member to allow Mr. Moore, who is in the possession of the House, to continue. There is a large number of other speakers on the Opposition side who can deal with the arguments that Mr. Moore may advance. That is the only way in which a fair debate can take place and I would ask the Honourable Member not to continue to interrupt the Honourable Member who is now speaking.

Mr. Arthur Moore: At any rate, Sir, I am glad that my Honourable friend and myself are in agreement with my statement of the doctrine. He says that that is the doctrine and we must face it out. Now, Sir, that is exactly the point I am trying to make. The basis of the doctrine is force, a disbelief in non-violence. Mr. Gandhi himself . . . . .

Mr. B. R. Puri: On a point of order, Sir. It is bad enough you have locked him up, but at least he should pronounce the name of Mahatma Gandhi correctly. It is not *G-ă-n-d-e-e*, but *Gandhi*.

Mr. President: I wish the Honourable Member had abstained from taking advantage of rising to a point of order without there being any point of order.

Mr. Arthur Moore: I regret if I mispronounce the name. I shall avoid the difficulty by calling him the Mahatma. (Laughter.)

At any rate, we are now in agreement. The basis of this doctrine is force and a disbelief ultimately in non-violent methods. The Mahatma may and I am sure does on this point deceive himself; but we at least here cannot be deceived. It is perfectly idle to draw a distinction between physical force and some other kind of force.

Mr. C. S. Ranga Iyer: Soul force!

Mr. Arthur Moore: It is perfectly idle to draw a distinction, for instance, between hitting a man on the head on the one hand or quietly starving his wife and children on the other. Then, Sir, there is another point about this doctrine and that is that it must be aggressive. It is not a doctrine that can be used in self-defence. It can only be used to attack the existing order of things wherever it is found. A further point about this doctrine is that it rules out the possibility of coming to a harmonious agreement, and that is what I want Mr. Mudaliar to remember when he lightly dismisses the preamble of this Resolution.

Mr. C. S. Ranga Iyer: Who denied the interview?

Mr. Arthur Moore: It rules out the possibility of an agreement with people so long as they hold that doctrine. There is nothing to be done with them. That, Sir, is why the Delhi Pact was a failure. The Congress did not believe that Lord Irwin was just a Christian trying to agree with his adversary while he was in the way with him.

Mr. C. S. Ranga Iyer: The Mahatma did.

Mr. President: I will not permit these interruptions. I have repeatedly asked Honourable Members not to do so. I hope the Chair will not be forced to name any Member.

Mr. Arthur Moore: The Congress instead of assuming that Lord Irwin . . . . .

Mr. President: May I draw the Honourable Member's attention to the fact that his time is up.

Mr. Arthur Moore: Perhaps the Honourable President will allow me a couple of minutes in view of the interruptions.

Mr. President: I will allow the Honourable Member one minute more on that ground.

Mr. Arthur Moore: My point briefly is this that the Congress believed that Great Britain had been humbled by their strength, and therefore without any change of heart whatever or any response to Lord Irwin's gesture, they set about preparing for the renewal of war.

Mr. C. S. Ranga Iyer: Mahatma Gandhi went to the Conference in response to Lord Irwin's friendly gesture.

Mr. President: Order, order. I have repeatedly asked the Honourable Member not to interrupt. The only way to reply to Mr. Arthur Moore's arguments is when other speakers follow him.

Mr. Arthur Moore: The whole of this doctrine which I have attempted to summarise is entirely alien to British ways of thinking and until recent years it was entirely alien to Indian ways of thinking. Now, the whole country is breaking up in an orgy of boycott . . . .

Mr. President: I am afraid I cannot allow the Honourable Member to proceed any further. He is going on as if he had lots of time at his disposal. I am sorry I cannot allow him to speak any more.

Mr. Abdul Matin Chaudhury (Assam: Muhammadan):- Sir, the Honourable the Home Member has told us that he will treat this motion as a motion of censure. I can tell him that it is intended as a motion of censure. It is intended as a motion of censure for reversing the policy with which Lord Irwin's honoured name is associated and adopting a policy of repression. It is intended as a censure motion for effecting the arrest of Mahatma Gandhi and thereby creating a situation in the country which is most prejudicial to the constitutional advancement of the country. It is intended as a censure motion for the brutal manner in which these tyrannical ordinances have been applied in the North West Frontier Province. Sir, in the Round Table Conference, which I had the privilege of attending, I heard it repeatedly emphasised by responsible British statesmen that in the governance of India the days of dictation were over and that the solution of India's constitutional problem lies through the methods of conference, negotiation and consultation. It was a very dramatic moment in the Round Table Conference when, turning to Mahatma Gandhi on his left, the Prime Minister, striking a very deep personal note, said "My dear Mahatma, this is the only way". By which he meant the ways of negotiation. It now appears in the light of the later developments that it would have been far more proper if, instead of turning to the Mahatma on his left, the Prime Minister had turned to the Secretary of State on his right and told him: "My dear Sir Samuel, this is the only way", because it was the Secretary of State and the Government of India who needed the advice more than the Mahatma.

Now, Sir, what is the position of the country which the delegates have found on their return to this country, the delegates on whom the virtue of co-operation was so strongly impressed? They find here, instead of a Government based on public co-operation and public consent, a Government by dictation from the Secretariat; instead of a regimé of law as passed by the Indian Legislature, a regimé of Ordinances. They found here a naked autocracy in which neither life nor property nor liberty was safe. Mahatma Gandhi, to whom the appeal for co-operation was particularly made, wanted to pursue a policy of co-operation.

He applied for an interview. What was the result? He was told most curtly in the most approved bureaucratic style, "No discussion of the Ordinances would be permitted". I ask this House, who banged the door against further negotiation? Who banned discussion as a method of settlement? It was the Government of India. Who precipitated a crisis in the country? Not alone the Congress, but the die-hards in the Civil Service who were chafing under the restraint imposed by Lord Irwin's conciliatory policy. Every one is agreed that His Excellency Lord Willingdon was very badly served by his advisers in refusing the interview to the Mahatma. Now since his departure from London, Mahatma Gandhi had been scrupulously careful not to commit himself to any hasty announcement. His prompt contradiction of the Italian interview showed his desire for peace and compromise. On landing at Bombay he was confronted with the arrest of three of his lieutenants, Khan Abdul Ghaffar Khan at Peshawar, Pandit Jawahar Lal Nehru and Mr. Sherwani at Allahabad. If these three gentlemen were pursuing a rash and subversive policy, the one man who could have restrained them, the one man who could have converted them to the more constitutional course of conduct was Mahatma Gandhi.

An Honourable Member: Why did he not do it?

Mr. Abdul Matin Chaudhury: Was he given a chance to do it? Those, who are anxious to wreck the policy that the Round Table Conference stands for, saw to it that the chance was denied to him. Like the Labour Party in England, which believes in socialism but not in our time, our Civil Service professes to have profuse sympathy for India's aspirations for full responsible government but takes care to see to it that it does not come about in our time. It is a tragedy that in a critical period in the history of India the war party, the party of the mailed fist on the one hand, and the party of direct action on the other got the upper hand in the counsels of the Government and of the Congress.

Now in justification of their action, the Government supplied us day before yesterday with the reports from Provincial Governments. I shall deal with only one of these reports, that dealing with the Frontier. It appears that ever since the conclusion of the Delhi Pact, Government began to receive reports from the officials of the Frontier about the infringement of the Pact by Red-Shirts and inflammatory speeches by Khan Abdul Ghaffar Khan, advocating non-payment of revenue and water-tax as preparatory to the next war. The report that they received in the months of July, August, September, October and November showed no improvement in the situation. If the Government were convinced that the authorities in the Frontier had to be armed with extraordinary powers, they could have very easily come before the Assembly in September in Simla or in November in Delhi for emergency powers. Why did they not come

[Mr. Abdul Matin Chaudhury.]

before us? The situation in the month of December did not differ materially from the situation in the month of November. Nothing extraordinary had happened in the month of December. Why is it that the Assembly was ignored? Why were they not consulted? The reply is simple enough, and is known to every one in India. The Government of India, the autocrats who rule over us, believe in government by Ordinances, like the Tzars of Russia, they believe in government by Imperial ukases. They have no faith in these Assemblies or Dumas or legislative bodies like them. They do not believe in the policy of co-operation preached by a socialist Premier or a Christian *Ex*-Viceroy. I can tell them that Imperial ukases did not save the House of Romanoffs from downfall. These Ordinances also will not save the tottering bureaucracy in India from its impending doom.

Now about Khan Abdul Ghaffar Khan. It is said that he used to make inflammatory speeches, after his release under the Delhi Pact. This Pact did not contemplate the suspension of the ordinary machinery of law, it did not contemplate the abdication of Government. Why was he not arrested under the Indian Penal Code? The very fact that a prosecution was not undertaken shows that the law officers of the Government were not satisfied that these speeches would warrant a conviction. (Hear, hear.) Evidently Khan Abdul Ghaffar Khan had been keeping within the bounds of law and so other means were found to arrest and deport him.

What has caused the great unrest and commotion all over India, and particularly in the Muslim community, is not so much the promulgation of the Ordinance as the extreme brutality and the barbarity of its application. Under these Ordinances a reign of terror has been instituted in the Frontier (Shame), a number of people have been shot dead (Shame), thousands have been imprisoned, fines have been levied on villages, night raids and day raids have been carried on (Shame), all with the intention of crushing the spirit of the Frontier Pathans, a miniature Jallianwalla has been enacted at Kohat. Like General Dyer, the Frontier officials are out to create a terrific impression. Yesterday those few gentlemen who had come over from the Frontier unfolded to us a story of savagery which finds its parallel only in the incidents of the darkest days of martial law in the Punjab. Still we are told every week, almost every day, by the Chief Commissioner of the North West Frontier Province that the situation on the Frontier continues quiet. Sir, whenever I read that statement, I am reminded of those harrowing descriptions in the German author's Remarque's novel "All quiet on the Western Front". The quiet that reigns in the Frontier is like the quiet that prevailed in the Western front during the war. It is not the quietness of peace, it is the quietness of the grave.

Now, the Government are going to introduce reforms in the Frontier. If they believe that by these civilizing methods of shooting, imprisonments, raids, arrests, fines, and assaults, they can infuse into the heart of the Frontier people a love for reforms, they are certainly mistaken. (Hear, hear.) These Ordinances have killed all enthusiasm for reforms. If the reforms are to be given a sporting chance in the Frontier, then these Ordinances ought to be immediately withdrawn and amnesty granted to the prisoners. (Hear, hear.) They are talking of holding an election in April. Any election held under the shadow of the Ordinances when freedom of association is banned, when freedom of movement is restricted, when freedom of expression is gagged, will only

be a mockery of election, a sham election, and a bogus election. Sir, The Afghan jirga, the Frontier Khilafat Committee, the Jamiat-ul-Ulema have all passed Resolutions urging the release of the prisoners and the withdrawal of the Ordinances for creating a favourable atmosphere for the inauguration of the reforms. To this I would add one more suggestion. Those Frontier officials who believe that the margin of safety will be exceeded unless the Frontier is turned into an armed camp, those officials who have acquired considerable notoriety by their repressive action ought to be removed from the arena of their heroic exploits. These militant officials, Sir, these budding Dyers are hardly the appropriate instruments for working successfully a representative institution on the Frontier.

Do not commit the mistake of treating the Frontier as an isolated local problem; it is an all-India question. The entire Muslim community all over India, as also the Hindu community, is reverberating with sympathy for the sufferers in the Frontier. The most extreme Congressmen among the Mussalmans and the most ultraloyalists in the community have discovered a common meeting ground by the graves of the victims of the Kohat massacre. The cloud that has arisen in the Frontier may just appear no bigger than a man's hand, but unless tactfully handled, take it from me, it will engulf the entire Muslim India. Sir, my time is up. I would only say one last word. The Government ought to grasp the hand of fellowship that has been extended by the Afghan jirga, the Khilafat Committee and the Frontier Jamiat-ul-Ulema. They ought to restrain the excesses of their officials and pack some of them off from the Frontier.

Sir Evelyn Howell (Foreign Secretary): Sir, I propose to preface my own remarks on this occasion with a fine saying which is not my own. It runs, "Suspicions among thoughts are like bats among birds that ever do fly by twilight". May I at the outset beg all Honourable Members to fling open the windows of their minds and let in the daylight of clear thinking, to turn out the bat, suspicion, and to keep it out? The Honourable the Home Member and my Honourable friend Mr. Mudaliar opposite have agreed, and there is a general agreement, that the issue before the House is clear. The motion is intended as a motion of censure, and those who vote in support of it must be held not only to condemn Government, but also to give the support of their attitude to the subversive activities of those who caused the Ordinances of which they complain to come into being. (*Cries of* "No, no", "Certainly not" etc.) "He that is not with me is against me, and he that gathereth not with me scattereth abroad." It is for Honourable Members to take their choice whether they will gather or whether they will scatter. Sir, the last speaker, Mr. Abdul Matin Chaudhury, said that the situation in the North-West Frontier Province in December last did not greatly differ from what it had been all through the summer, and if Government did not proceed against Abdul Ghaffar Khan for his numerous speeches during the summer, it must be that his speeches did not render him liable to prosecution. I can assure him—it is only my personal opinion but I think it would be generally supported—that he is wrong and that if Government had chosen to launch a prosecution there would have been no doubt whatever about a conviction.

Mr. Abdul Matin Chaudhury: Why not try him today?

Sir Evelyn Howell: Sir, what was the position last December in the North-West Frontier Province? Abdul Ghaffar Khan had made it his business ever since he was released under the Delhi Pact to stump the

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province from one end to another and deliver one inflammatory speech after another,—I can give the House specimens if they want to hear them,—to recruit numbers of Red Shirts,—he himself said that their numbers ran into hundreds and thousands, at any rate they were a very large number,—to organise them on purely military lines, to instil into their minds the necessity of renewing the fight, to preach to them that they should in no way co-operate with Government, to interfere with the ordinary administration and to usurp many of the functions of Government. As time went on he infused even other notes. He opposed all payments of land revenue and of other dues; he told the people not to take the water from the canals and in no way to co-operate with Government. Then came the Prime Minister's announcement of the 1st December announcing the intentions of His Majesty's Government and of the Government of India towards the North West Frontier Province. I ask my Honourable friend Sir Abdul Qaiyum whether he regards that announcement as satisfactory or not.

Nawab Sir Sahibzada Abdul Qaiyum (Nominated Non-Official): Most satisfactory. (Laughter from Non-Official Benches.)

Sir Evelyn Howell: I am delighted to hear it. On this side of the House we entirely agree in that view. But that was not the view that Abdul Ghaffar Khan and his friends took. They denounced it as entirely unsatisfactory; they said it was wholly inadequate and they would have nothing whatever to do with it. Well, Sir, I would say with a full sense of responsibility here that I am quite sure that there is no other Government in the world that would have put up with Abdul Ghaffar Khan one half so long as we did. When it was clear that in spite of the efforts of the Chief Commissioner, of officers of the Government of India and of officers of the Frontier Province that Abdul Ghaffar Khan would not co-operate, then, Sir, he got what came for him. Sir, the Government of India had themselves a double responsibility to look to. They had not only to establish law and order in the North West Frontier Province. The Peshawar district was in a state almost approaching anarchy. The figures of violent crime in that district, if my Honourable friend (Sir Abdul Qaiyum) will forgive me for saying so, are always somewhat appalling. Last year they were far more serious than they usually are. No revenue was being paid. The lives of loyalists and of Government officials were made a burden to them. The legitimate course of trade was impeded. Nor did it stop at this. The Peshawar district differs from other districts in India in that on the far side of it you get outside British India and get into a different country where different ideas prevail. Abdul Ghaffar Khan's tentacles stretched across that arbitrary line. His agents were in touch with malcontents and elements of opposition in all the adjoining tribes. If you wish for proof, read your newspapers and see what has happened in the last few weeks among the Yusufzai of Dir, among the Mohmands, and at an earlier stage, what was happening amongst the Afridis. Sir, it may be very safe and very profitable and very amusing to indulge in the sort of language in which Abdul Ghaffar indulged on the maidan at Calcutta or in the open spaces of Bombay, but I submit, Sir, to stage a highly inflammatory drama in front of an audience, of whom every man is armed to the teeth and who as a whole are only awaiting the cue to go round and loot the box office, is a proceeding of very questionable sanity. And that is what Abdul Ghaffar Khan was doing.

Secondly, the responsibility which, as I have said, we had upon us was that of restoring the stability of the administration with the minimum amount of excitement, opposition and consequent bloodshed. Well, Sir, the number of persons killed in the North West Frontier Province in the restoration of law and order amounts to 14. Let nobody think that any officer of Government regards the death of 14 of his fellow-citizens as a light matter. There is nobody who can take it more seriously than we do. . . . .

Mr. Abdul Matin Chaudhury: Our information is that the number of deaths at Kohat was 84.

Sir Evelyn Howell: The number is 14. Whatever the number may be, I would like to say that in my considered opinion, the blood of those brave but misguided men rests not upon us, but upon Abdul Ghaffar.

Mr. S. C. Mitra: Put him in jail and then abuse him.

Sir Evelyn Howell: And how was it that that affray at Kohat came about? It was not because the troops and the police went into the villages to do anything which they had been told to do. It was because an armed mob of villagers, armed with such weapons as they had—not very much—came to the cantonment and demanded to see the Deputy Commissioner and take his explanation of why Abdul Ghaffar had been arrested. The Deputy Commissioner of Kohat is an officer for whom my friend, Maulvi Shafee Daoodi, had a great deal of praise—Mr. Best. He was present at the cantonment gate; he reasoned with them; he spoke with them for a long time and he did his best to pacify them and to persuade them to disperse. On each occasion—there were two occasions on one day—while he was parleying with them, the mob became more and more violent and more and more difficult to control. Stones and bricks were thrown and injury was caused to more than one person amongst the soldiers and the police. What option was there then but to have recourse to force? I have recently returned from Peshawar and while I was there I had the pleasure of an interview with our friend, Mr. Shafee Daoodi. It took place on the evening of the 20th January, the day after I arrived. Indeed, if I am not mistaken he was good enough to delay his departure for a day, or perhaps two, at my request in order that we might have a talk with the Chief Commissioner—he and his companion, Mr. Mazharuddin, the Chief Commissioner and myself. We had that talk and it was a very cheerful and pleasant interview. Mr. Shafee Daoodi had apparently not then discovered the terrible mentality of the frontier officers, of which he has told us today. He did not so much as mention it; nor was he then aware that his movements had been restricted. On the contrary he thanked the Chief Commissioner in my presence for the courtesies and facilities which had been given to him. I submit that to make an attack upon the mentality of the frontier officers as a whole without any chance on their part to respond is grossly unfair. That, however, is by the way.

Another ground upon which Government has been attacked is the excesses on the part of the troops or the soldiery in putting the Ordinances into force. There is a proverb in Pushtoo which says:

"Sandagan Chi Jang ki, no Bute Kharapegi."

It means "When buffaloes are fighting, the grass is trampled." I much regret the damage to the turf, but I have not heard here of anything which seems to me to be utterly irreparable or in any way to deserve the

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language which has been poured out over it. If any such case can be brought to my notice I shall be glad to take a note of it and make the necessary inquiries. I may perhaps mention one incident which did come under my notice while I was in Peshawar. The day after I arrived, the Chief Commissioner told me that there was a rumour running about Peshawar City that two women had been thrown by the police from the Bala Khana or upper storey in one of city buildings. He was terribly put out about it and suggested that he should offer a reward of Rs. 300 for anybody who would bring him proof or evidence of this horrible tragedy. He did not offer the reward, but he caused enquiries to be made. The facts were that in one place in Peshawar city where some slight skirmish had taken place between the police and some roughs, which that city abounds, a few women had been sitting on a single storeyed building looking down into the street. One of the ladies was so carried away by her enthusiasm that she threw a brick on to the police and knocked out a policeman, whereupon one or two other members of the police party—men are apt to do things in the heat of the moment when their blood is up, which they would not ordinarily do—went round to the back of the house on the roof of which the ladies were sitting, whereupon the ladies jumped down into the street. That was all there was to it. . . .

An Honourable Member: What a tale!

Sir Evelyn Howell: A true tale, Sir.

An Honourable Member: Good fiction.

Sir Evelyn Howell: I regard the Frontier Province at this moment as something like a thorough bred horse which has been subjected perhaps to a certain amount of rough usage and is trembling all over. It has crowds of people round it, one saying this and one saying that. What the Frontier Province really wants is just to be let alone for a little bit. (Laughter from the Opposition Benches.) I can assure you that Government has no desire to keep the Ordinances on for one hour longer than they are necessary and it is quite aware that orders like those under section 144 may make the introduction of the reforms difficult. They are determined that those reforms shall be brought into force at the earliest possible moment, and you may take it from me, Sir, that they will do their best to secure the co-operation of the people of the Frontier in so doing. (Applause.)

Mr. B. Das: Sir, when I heard my Honourable friend, Sir Evelyn Howell. I felt he was taking a leaf from his European friends to his right and trying to expound the doctrine that any of us who condemns the repressive policy of the Ordinances were to be subjected to the operations of those Ordinances. He himself is not a member of the Cabinet, but I think he has access to His Excellency the Governor General because he holds the portfolio of the Foreign and Political Department. Why does he not then advise His Excellency to dissolve this Assembly and then to arrest us all and take us to the North-West Frontier Province or to some hole of a Fort which is under his own direct administration?

My friend, Mr. Arthur Moore, tried to ridicule and poohpooh the doctrine of non-violence for which Mahatma Gandhi stands. At the same time he and his colleague and my old friend, Sir Hugh Cocke, tried to

enunciate the doctrine of the white man's burden: and what is that doctrine? It is the "White Man's dominance all over the world". I tried to blow up that bubble of the white man's burden two years ago, and I shall again take the trouble of reviving the memory of my European friends and those who sit on the Treasury Benches, about the white man's world dominance, about which Upton Close wrote in his book, "The Revolt of Asia." He wrote:

> "We have come to the end of the White Man's world dominance. If he resigns himself to this historic evolution he will save his world and the Asiatic's world. If he resists he will likely bring about the destruction of both."

My European friends know how British diplomacy, of which we saw a sample in the speech of my friend the Foreign Secretary, was hounded out of China and how China hounded out the European diplomacy and particularly British dominance from China. No longer will British diplomacy, European diplomacy, or the White man's burden do. I will just quote two more sentences from that book. Upton Close advocates that the policy of the white man's burden should be this. There should be the White Man and Coloured Man's joint world. And finally he concludes:

> "It is let live and live." "It is tolerance, or death."

It seems that the European mercantile community in India have come to that death grip over the domestic troubles which Lancashire is faced with in England, and if today we have this plethora of Ordinances all over India, for this the European mercantile community and the Secretary of State, Sir Samuel Hoare, who is himself a merchant are responsible, because they are not afraid of the civil disobedience movement so much as they are afraid of the boycott movement. They want to suppress the boycott movement, and with the alliance of my friends like Mr. Ghuznavi, His Highness the Aga Khan and others, they want to start European trading centres in India to sell British goods. I do not know what happened to that company which started with a capital of 10 crores of rupees, and on the Board of which I think my friend Mr. Ghuznavi found a place. . . . .

Mr. A. H. Ghuznavi: I had nothing to do with it.

Mr. B. Das: The object of this Company was to foster British trade and British commerce.

An Honourable Member: It has been liquidated.

Mr. B. Das: I know it has been liquidated. My friends the members of the European mercantile community and the Home Member also know that, owing to the economic depression, there is no money to buy even Indian goods, to buy even the daily necessities of life,—not to talk of buying foreign goods. There is no money in the countryside with the people to pay even the extortionate land taxes which the Government of the United Provinces have levied and hence the no-rent campaign in the U. P. Sir, when I heard the speech of the Honourable the Home Member, I was reminded of that passage in Robert Berney's book "Naked Faqir" where Robert Berney (now M. P.) makes those allegations against the Executive Councillors of His Excellency the Governor General. In one passage he observes that the Executive Councillors all put together have no brains, nor the diplomacy, nor the political acumen to sit round Lord Irwin or even the present Viceroy, and even there it has been mentioned that a lady, the wife of a certain Executive Councillor has more political

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brains than all the Executive Councillors combined. (Laughter.) With all their mistakes, the Government will never learn. Sir, I do not wish to refer in my own words to the distress that exists on the countryside. I want to quote certain passages from a representation of that Prince of co-operators, I mean Pandit Madan Mohan Malaviya, which has been addressed to H. E. the Viceroy, and which I think my friends on the Executive Council must have read. I think I shall have occasion to refer to passages from that prince of co-operators and though I don't agree with him in everything he says because he co-operates too much, but I hope every Member of the Executive Council will pay respect and act up to what he has said. This is what is stated in that representation:

"In the course of the speech which Your Excellency addressed to the Legislative 4 P. M. Assembly on the 25th instant, you laid the blame for precipitating the conflict on the Congress. In a letter replying to the telegram which I sent him, Sir Samuel Hoare also has said :— 'I wish that the Congress had not acted with so much precipitancy'. Fairness to Mahatma Gandhi and public interests imperatively demand that the truth about this matter should be established beyond cavil or dispute.

In the statement published by the Government of India on the 4th instant, which, I regret to say, contained many misstatements regarding the Congress, it was said :

Mr. Gandhi had given no clear indication of whether he or the Congress, whom he represents, were willing to co-operate in the fulfilment of the scheme of His Majesty's Government.'

This was clearly opposed to facts. Before leaving London, Mahatma Gandhi and I had separate interviews, both with the Prime Minister and the Secretary of State, and the question of Mahatma Gandhi's co-operation in the further work of the conference was discussed. In the conversation in reply to Mr. Gandhi's question Sir Samuel Hoare had told Mr. Gandhi that neither the Prime Minister's declaration nor his speech in the House of Commons was the last word on the safeguards or reservations, and that it would be open to any member of the proposed working committee to suggest amendments or removal of any of them, as also to press for an investigation of the financial obligations to be taken over by the National Government. I suggested to Mahatma Gandhi to get this assurance reduced to writing as the matter was important. He did write, and I know it for a fact that in his reply Sir Samuel Hoare repeated the assurance. It is obvious that the object of Mahatma Gandhi in asking for this assurance was to make it possible for him to co-operate in the work of the Committee and I know it for a fact that he had assured both the Prime Minister and the Secretary of State that he would try his best to do so. On the day of his arrival in India he stated it publicly that he was anxious to co-operate with the Government. He said :

'I landed in the hope that I shall find out ways and means of tendering co-operation, but when I find that at every step there is a huge boulder, what am I to do? I am dying to find those ways and means'.

Mahatma Gandhi found that on the top of the Bengal Ordinance, the U. P. and the Frontier Ordinances had been passed, shootings had taken place in the Frontier, and some of his valued comrades had been arrested. Notwithstanding all this he wired to Your Excellency, with the unanimous approval of the Congress Working Committee, asking for an interview, so that he might 'receive guidance from you as to the course I am to pursue in advising Congress'. This was on the 29th December."

Mr. President: Is the Honourable Member going to read the whole of it?

Mr. B. Das: Sir, I will read as far as I can. The other Members will read the rest in view of the fact that Pandit Malaviyaji was former leader

of the Nationalist Party and the pre-eminent position he holds amongst Nationalists:

"Speaking on the following day at Calcutta, and referring to the activities of the Congress in the U. P. and the North-West Frontier Province, Your Excellency said :

'I venture to hope that even at this eleventh hour, Mr. Gandhi, the acknowledged leader of the Congress Party, who has only very recently returned from England, will call at halt to those activities and will agree to co-operate with us and give us the advantage of his powerful influence to help forward solution of the great problem that is before us, namely, to secure for Indian people responsibility of administering their own affairs.'

When Your Excellency had made this appeal, why did you decline Mahatma Gandhi's request for an interview which he sought in order to know the Government points of view of the questions on which you had appealed to him to advise the Congress?. . . ."

I will leave out this portion and read out a more important portion of this document.

"Your Excellency unfortunately persisted in rejecting Mahatma Gandhi's offer on the ground that you could not invite him 'with the hope of any advantage, to an interview held under the threat of the resumption of civil disobedience' and you told him that your Government must hold him and the Congress 'responsible for all the consequences which may ensue for the action which the Congress have announced their intention of taking and to meet which the Government will take all necessary action.'

Mahatma Gandhi yet again wired expressing his deep regret at the decision of Your Excellency and your Government. He told Your Excellency that it was wrong to describe an honest expression of opinion as a threat. He reminded you that the Delhi negotiations were opened and carried on whilst civil disobedience was on and that when the pact was made civil disobedience was not given up but only discontinued, that this position was re-asserted and accepted by Your Excellency and your Government in Simla in September last prior to Mr. Gandhi's departure for London, that although he had made it clear that under certain circumstances the Congress might have to resume civil disobedience, the Government did not break-off negotiations, and that had they resented that attitude, it was open to them not to send him to London. But Your Excellency did not relent. No further reply was received by Mahatma Gandhi and his arrest and imprisonment swiftly followed. Allow me very respectfully to say that these facts clearly show that it was not Mahatma Gandhi or the Congress but Your Excellency's Government who forced a conflict."

"Your Excellency knew that Mr. Gandhi is the greatest Indian living, that for the purity and unselfishness of his life and his high-souled devotion to the cause of his country and of humanity, he is adored by countless millions in India and widely respected in all parts of the world. You knew that for ten years he has been the recognised leader of the greatest political organisation in India, that only a few months ago at a time when the civil disobedience movement was in full swing, the Government had made a truce with him and that Your Excellency had under the direction of the Cabinet of England, invited him to the Round Table Conference. You could imagine that whether it be this year or next year, when a new constitution is introduced in India, in all human possibility, Your Excellency will have to hand over charge of the country's affairs to Mr. Gandhi. . . . ."

Mr. President: The Honourable Member's time is up.

Mr. B. Das: Somebody else will take it up, then, Sir.

Mr. N. M. Joshi (Nominated Non-Official): Sir, in the present warlike atmosphere of the country, the position of a pacifist like myself is indeed very difficult, but I feel that it is my duty on this occasion to speak frankly and freely, and I assure you, Mr. President, very briefly. The Government and the Congress have been for some time speaking as if they are at war. They use language which is martial, both in tone and in spirit. According to both, everything is fair in war, every measure is justified by way of

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repression and by way of agitation. Mr. President, we who are neither the Government nor the Congress feel that it is our duty to judge the case of each, namely, both the Government and the Congress, on their merits.

It is futile to discuss who started the war, or who fired the first shot. No useful purpose will be served by trying to assess the blame. The Honourable the Home Member said that the Government took up the challenge thrown by the Congress when the Congress discussed the question of no rent, when some officers of the Government were murdered unfortunately by anarchists, certainly not by the Congress. The Congress on the other side accepted the challenge of the Government when Government officers began, soon after the Irwin-Gandhi pact was made, to make lists of Congressmen all over the country. We therefore feel that no useful purpose will be served by trying to assess the part played by either the Government or the Congress in initiating this war. But let me say one word when the Honourable the Home Member said that the Government accepted the challenge. May I ask him as a humble student of British history whether there was a time when the British Government gave anything to us without the challenge being thrown? As a Member of the Legislative Assembly I remember very well that before the end of the first Assembly about nine years ago it passed a Resolution asking for further reforms. Was anything done before the challenge was thrown? It is more than six years since the Assembly passed a Resolution asking for a round table conference. The Round Table Conference met only last year. How are we to believe that the Government will do anything without a challenge being given to them? It is not therefore wholly the fault of the Congressmen if they gave the challenge. But, Sir, I do not wish to go into that history. Those of us who are neither Government nor Congressmen feel that so long as this war lasts, if it is to last at all, it must be fought fairly and according to the rules of the game. That is our first duty. Our second duty is to see that the war is ended without delay. Sir, considering these two questions, when I think of the Ordinances I feel that, although as a measure of war, Ordinances may have been necessary, still even the Honourable the Home Member will not deny that the powers taken by the Ordinances are drastic and too wide. I am not a Congressman, but it is quite possible that my young boy may take it into his head to join the Congress, and I am likely to be fined for it. (*An Honourable Member*: "And sent to jail.") And I may be sent to jail. Sir, it may be said that a man who takes part in the labour movement is a man of suspicious character. But Sir Tej Bahadur Sapru is a landholder in a village in the United Provinces, not in Allahabad,—Sir Tej Bahadur Sapru lives in Allahabad. The village may be fined and as a holder of land in that village, Sir Tej Bahadur Sapru is liable to be fined. May I say that if the Honourable the Home Member takes it into his head, he can occupy the Viceregal Lodge to-morrow under the Ordinances? It is not at all difficult for him. But, Sir, whatever may be the powers taken under the Ordinances—and I agree that to some extent such powers must be drastic—even though the powers may be drastic, they must be exercised with restraint and moderation as the Honourable the Home Member stated. But are the powers exercised with restraint and moderation? May I quote a few instances? At Cocanada Mr. B. Sambamurthi was a member of a meeting. The meeting was declared illegal. Mr. Sambamurthi was

beaten and he was beaten till he became unconscious. After he became unconscious he was kicked with boots, he was sent to hospital, and in the hospital notice was served upon him, and he was prosecuted. Now, Sir, may I ask the Honourable the Home Member whether this is restraint, this is moderation? May I give another instance? Mr. Sunder Lal is a permanent resident of Allahabad. The Magistrate of Allahabad asked him to leave his jurisdiction. Now, it is quite possible that Mr. Sunder Lal when he leaves the jurisdiction of the Magistrate of Allahabad might go to Benares. The Magistrate of Benares may tell him that he is not a resident of Benares and therefore he must leave that place, and so on. There will be no place where he could go. And if he tries to go out of the country, as a Congressman he will not get a passport. Sir, is this fighting the war according to the rules of the game? Then, Sir, a boy in Bombay was given, I think, 12 lashes on bare buttocks. May I ask, is this cruelty necessary? If Government want to repress the movement, let them do so by ordinary means without humiliating people. People fight wars and sometimes with great severity, but certainly no honourable enemy will try to humiliate his opponent. May I ask, when the Congressmen are asked to report themselves to the police three times a day, whether it is not humiliation? Does any officer of Government suggest that Congressmen are carrying on their movement secretly or they run away for fear of being arrested? Why are they then asked to report themselves to the police, except that the Government want to humiliate these people in the eyes of the common masses?

Sir, I do not wish to add to these instances but may I, in order to convince the Government that their officers are not carrying out this repression with restraint and moderation, tell them what a very moderate and distinguished politician in Madras, whose moderation, sagacity and respect for law and order will not be doubted, has said. This is what he writes: "The application of the Ordinances has been marked by great brutality and by unjustifiable severity". If the Honourable Member likes me to tell him his name I shall do so. Then the Principal of a great educational institution in Madras told the Chief Secretary of the Madras Government that the most unlawful organisation in Madras is the Government of Madras. Sir, I do not wish to add anything more on this point.

Then, Sir, so far as this Resolution is concerned, the Honourable the Home Member stated that he considers it as a vote of censure upon Government. I do not know why he should feel so. Now, the first operative part of this Resolution suggests that the Government of India should place before this Legislature legislation giving effect to the Ordinances. This Legislature has been established by the Government of India Act. It has been established in order that it should pass legislation on which the policy of the Government of India should be leased. It is the intention of the Government of India Act that the Government of India should carry on the Government of this country with the approval of this House. Is it therefore a vote of censure upon Government if the Legislative Assembly asks them to carry on the Government of India with their approval? Every Member of the Assembly considers it a humiliation that the Government of India should be carried on without their approval and without even a show of their approval.

Now, the second part of the Resolution suggests the same thing, that if this war is to be fought, it may be fought in such a way that the Legislature should feel that it is being fought with restraint and moderation.

[Mr. N. M. Joshi.]

I therefore feel that there is nothing in this Resolution to which Government can take exception. The last part of this Resolution suggests to the Government the method by which the war could be ended and that is the most important part of the Resolution. We are anxious that this war between the Government and the Congress should be ended without the least delay. In my judgment it could be ended by bringing the new constitution into existence at the earliest day with the co-operation of all communities in this country. The Government of India and the British Government are delaying the coming of that constitution by refusing to give a decision on the communal question. Some people may not think so, but I feel that it is the duty of the British Government to give a decision on this question immediately and without trying to show to the world that it is the Indians who are divided among themselves. I therefore feel that the Government should do that immediately. I also feel that the Committees which have been appointed should finish their work without delay. These measures should be taken with the co-operation of all the interests in the country, and may I say that in the constitution of the Franchise Committee the Government here and the British Government have refused to ask for the co-operation of the working classes of this country? I hope it is not the intention of the Government of India and the British Government, when they transfer the power, to transfer the power from the gentlemen of Great Britain to the gentlemen of India. We want the power to be transferred to the common people of India. I therefore feel that the new constitution should be brought into existence without delay and that it should be brought into existence with the co-operation of all interests, and if that is done I feel that this war will be ended and then only we shall get the peace which we all desire.

Mr. B. R. Puri (West Punjab: Non-Muhammadan): The present state of the Government of India's mind is, to say the very least, highly panicky, and I do not think I can illustrate it better than by quoting a story in that connection. A British officer in an outpost in the heart of Africa received a wireless message from his superior officer to the effect, "War has been declared. Please arrest all enemy aliens". Prompt in his reply he wired back, "I have arrested 7 Germans, 3 Belgians, 2 Frenchmen, 2 Italians and an Austrian and an American. Please say with whom we are at war". (Laughter.) Sir, the Government of India are unnerved and have declared war all round. Their mind is unhinged. They are creating hostilities all round by their reckless arrests. They have not spared Hindus, Sikhs, Muhammadans, Marwaris, Jains, Punjabis, Bengalis, Madrasis, all sorts and conditions of people, men, women and children, young and old. They have spared none. During the last non-co-operation days there were at least 60,000 people who cheerfully marched into jails and did not raise their little finger. Today if the press account is correct, the latest figure is that well nigh 20,000 people have gone already into jail. The conditions that prevail in the country are such that they cannot be considered lightly. They cannot be ignored. The conditions prevailing are really serious and require the immediate attention of all concerned. People are being interned and externed without any trial. Different public bodies are being declared unlawful. Their funds are being forfeited. The police, whose traditions and antecedents we are well aware of, are being let loose and they have been invested with most unprecedented powers. (*Cries of* "Shame".) Women are being insulted. Men are being shot down dead and yet mind you, there has been not a single report of any case of counter-violence on the part

of the people, (*Cries of* "Oh, Oh" from the Non-Official European Benches.) except possibly stray cases of terrorism, which fall into a different category altogether. Nobody with the least sense would extol them; we are here to condemn them, and that is all that need be said so far as that part of the activities is concerned. But so far as the rest of the public are concerned, I think I would not be overstating the case when I say that they are being victimised without their having opened their mouths or raised their fingers. That is the state of affairs in the country, and the people are cheerfully submitting to all this treatment that is being meted out to them. Why? That is the most natural question that I raise. What have the people done to deserve all this treatment? That is the question that the Government are called upon to answer. We have been listening very carefully to the speeches of responsible ministers and Government officials. We have been supplied with literature as to the happenings that have taken place in different provinces. The reports give us very rich details, and we find if those accounts are correct that ever since the Delhi Pact there are alleged to have been committed a series of acts which the Government are today out to condemn and which they are using as the basis and excuse for all this new legislation by means of Ordinances. They say that this programme and this propaganda has been going on ever since,—that there has been ceaseless activity on the part of the Congress against the Government in instigating the people. But to do what? Now let us consider for a moment what are the sins that the people are supposed to have committed which at the present moment the Government are treating as a justification for taking these unprecedented measures through Ordinances against them. *Number one*, that a no-rent campaign has been started by them in the United Provinces. Now this campaign no doubt is there, and we cannot shut our eyes to it. But the question is, can anybody seriously dispute the most acute economic distress that prevails in those parts of the country, in fact all over the country? Have not the Government themselves, tardily though, acknowledged and admitted the fact that these people's capacity to pay is not commensurate with their income? Sir, the prices of produce have gone down so low that it is impossible for them to meet the Government demand. The Government complain that there is the no-rent campaign. The Government might well anticipate that in the near future the urban population also is bound to get affected if the present conditions continue; if the present distress continues, there will be a no income-tax campaign in the near future. We urban people are not in any better or more happy position than the agriculturists are: perhaps the agriculturists are only a shade worse off, but things are becoming every day so acute, that before long we shall have to face not only this no-rent campaign but we may have to face an altogether "no-payment" campaign throughout the country from one end to the other. (Laughter.)

Then the second sin which the Congress is supposed to have committed is that they have started parallel institutions, namely, their own panchayets and their own courts, and they have begun to determine and decide cases, and thus they have discouraged people from patronising the British courts of justice. That is a great sin indeed. The Government case appears to be that people should be encouarged not to have their disputes determined in this way, but that they should go all the way to British courts, to pay money in the shape of court fees and lawyer's fees and get ruined in that way. Sir, litigation is the bane and the ruin of the agriculturists, yet it is a sin which the Congress is committing when it preaches against it and

[Mr. B. R. Puri.]

advises people to have their disputes made up cheaply at home. Then there is the campaign against drink and use of foreign goods. Now surely, Sir, it does not lie in the mouth of a Christian Government to say that its subjects should resort to drink or use of foreign goods. If to use Swadeshi goods is a sin, Sir, we are in good company. Even His Royal Highness the Prince of Wales is preaching today that British goods *only* should be used. Well, if that is a good principle for English people to follow, how does it become a gross sin on the part of wretched Indians if we follow the same principle ("Hear, hear" and Laughter). Sir, not only is it a necessary principle for us to follow, but it is a most righteous measure and the most moral measure which we can adopt ("Hear, hear"),—and that is just where the Government loses its case. They have got no moral backbone to their case. If we are unable to pay the Government taxes, we are driven by sheer necessity to refuse to pay. If we have resorted to Swadeshi goods, it is because our capacity for buying other goods has so deteriorated that we cannot indulge in them. But even supposing we were using it as a measure of retaliation, nonetheless it does not lie in the mouth of a Christian Government to say that we should ruin ourselves in order to encourage the British trade. Suppose I started preaching to the people that they ought to lead more clean and hygienic lives. What would you think if the Government brought out an Ordinance saying, "This is a mischievous because if these wretched people start living more clean and hygienic lives their health will improve and the British drug trade will go down" (Laughter), "and similarly that you ought to indulge in drink, and resort to litigation, because the British trade is likely to suffer if you don't"? (Laughter.) I submit, Sir, that this is just where the British Government stands exposed that is what proves that the Government have got no moral support to their case. Sir, with regard to these Ordinances I have to say one or two words more. Sir, nobody denies that under the law as it stands at present, the Governor General has got the power to issue Ordinances in times of emergency. That is a proposition which cannot be denied, but the provision of the law gives these extraordinary powers to the Governor General only in times of emergency. Now, I have been listening very carefully and I note that the Honourable the Home Member maintained that all along from the date when the Delhi Pact came into being, the Congress never ceased its activities. If that was so, then the Government knew that things were drifting in such a way and the situation was being so shaped that sooner or later they were bound to confront a very difficult situation. If that was within their knowledge, then considering that this Assembly was in session twice, first in September and then in November, why was there no mention, no suggestion, no indication of the Government's intention to bring any of those matters before us for our opinion, consultation or co-operation? We were ignored. The moment we turned our backs in the month of November, out come these legislative bombs one after the other. Curiously enough, these Ordinances, which, I submit, are only emergency measures so far as the legal provision goes, have been actually used as if they were within the normal powers of the Governor General. In this connection, I would like to place before the House a quotation from the speech of Lord Ellenborough.

Mr. President: The Honourable Member's time is very nearly up. There is only half a minute more.

Mr. B. R. Puri: Lord Ellenborough in his speech in 1861, when this particular Act was on the anvil, said:

"It is now proposed that the Governor General should be enabled to make an ordinance which for a limited period of time should have the effect of law. This opens a question of the gravest importance. The law had been that whatever executive powers might be granted to the Governor General, he should have no Legislative powers without the concurrence of his Legislative Council. It was the Magna Charta of India."

Mr. President: The Honourable Member's time is up.

Mr. B. R. Puri: Just one more sentence:

"It has been adhered to throughout and very beneficially. I am unwilling to trust except under peculiar circumstances of emergency to any individual man whatever, however much I may respect him or whatever personal confidence I might place in him, the absolute power of making a law to bind a great Empire not only without the concurrence of its Legislative Council but perhaps even without having consulted them."

That, I submit, ...

Mr. President: Order, order. The Honourable Member has far exceeded his time, and must resume his seat.

Mr. R. S. Sarma (Nominated Non-Official): Mr. President, the most outstanding and, to my mind, the most honest contribution of the debate from the non-official Benches this afternoon is the speech made by my Honourable friend Mr. Abdul Matin Chaudhury, because he stated in plain and in simple sentences what this Resolution meant. He said, unlike our friend Mr. Joshi, that the Resolution was primarily and simply a censure motion and it was intended as such. He is an important member of his party and as such we take him at his word. The Honourable Mr. Shafee Daoodi, who is always listened to with great respect, and whose opinions carry great weight in this House, asked earlier in the debate why this Resolution, which is so mild and moderate in its wording, should find such strenuous opposition in some quarters, and the answer has been provided by the supporter of the Resolution itself, namely, that it is intended as a censure motion on Government for the measures they have taken to uphold law and order. If, on the other hand, this Resolution means anything else or if any other interpretation could be placed upon it, then I think a large body of opinion in this House is in support of most of the sentiments contained in it. I may say that if it is not a censure motion, but is intended merely as an expression of opinion with regard to the present political situation, then with some modification I think I should have myself supported it. Speaking arithmetically, Sir, if you ask what is the G. C. M. or the Greatest Common Measure of the Independents and the Nationalists, I should say the figure 312, because this Resolution contains 312 words. And if you were to find a common agreement between all the parties, you would have to include some more words to find out the greatest common measure for all people in this House. What the Resolution says is that this Assembly condemns acts of terrorism and violence and disapproves subversive activities, and that the real remedy lies in expediting the inauguration of a new constitution. I agree and every one will agree with that. With regard to the third portion, that the Governor General should secure the co-operation of the various organisations in this country towards this, I also agree. The alertness, the promptitude and the quickness and the energy with which Lord Willingdon's Government have thrown themselves into the task of

[Mr. R. S. Sarma.]

forming these new Committees in order that they may carry on and continue without the least delay the work of the Round Table Conference shows how eager Lord Willingdon's Government themselves feel in this matter. With regard to the first portion where it contains the manner in which the ordinances are being worked, I also think that there will be a large amount of agreement because there are instances in which these ordinances in their application and administration have been abused. But the Honourable the Home Member himself said this morning that in the application of such drastic and emergency measures you cannot help that some officers were likely to make mistakes. We were also given an assurance that these abuses should not be attributed either to the Home Member or to the administrators of the provinces. That assurance has come from the Honourable the Home Member this morning. After this, I do not see why this Resolution should at all be moved. There is no case for it. The only justification for this Resolution, then, is that it is intended as a censure motion against the Government and it is because of this that I oppose this Resolution. This Resolution, construed as a censure motion, strikes at the very root of orderly Government. Sir Hari Singh Gour was asking about the fundamental rights of citizens. May I ask him what about the fundamental duties of citizens in the matter?

Sir Hari Singh Gour: The fundamental right of a citizen is to vote for this Resolution.

Mr. R. S. Sarma: The fundamental right of a citizen is to vote for a Resolution after he has thoroughly, honestly and sincerely exercised his fundamental duty. It comes after that. Sir, this Resolution is a censure motion. Therefore, in my opinion the acid test of our responsibility is to distinguish the values and to demonstrate to the world whether we are for or against orderly government and law and order. A government if it is to perform its duty must govern in the manner in which it is governing now. If it is not prepared to govern like this, it had better abdicate its powers. And those representatives of the people in the Legislature who are not supporting the Government in these measures or who are standing in the way of such measures as are passed to secure orderly government are not only enemies of this Government but the enemies of the Indian nation.

Mr. M. Maswood Ahmad (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, at the very outset of my speech I want to make it clear in unmistakable and unequivocal terms that I have no faith in the Congress. I take the Congress to be like an organization similar to many others in India, but at the same time I do realise, as every other Honourable Member realises, that Congress is a powerful, well-organised and a big association in India. I condemn the terrorist movement, the civil disobedience movement and also the no-tax campaign. Civilization means abiding by the laws of the country. Civil disobedience will be a bad example for the future Government of India, and once the people are apt to it, it is quite possible that even then they may resort to the same weapons which will prove very distressing and harassing to the future Government that is going to be established in this country, and therefore I assert that I do not stand to achieve anything by unconstitutional and illegal means.

Sir, at the same time I cannot and do not approve of the policy which the Government of India has lately been pursuing. Civil laws to my mind mean laws approved by the representatives of the people of the country

and as such all the ordinances recently promulgated to suppress the national movements and activities do not find favour with me and do not come under the category of civil laws.

Sir, it is alleged that under the garb of law and order, with the sanction of some ordinances at their backs many barbarous acts have been committed, in the North West Frontier Province, such as, keeping prisoners in the open air, day and night, firing on unarmed crowds, day and night outrages, *lathi* blows on the head, chest and joints of innocent and law abiding citizens, stripping of men naked before beating, and in short the beating and torturing has been most merciless. Are not such acts shameful? Such laws which sanction such inhuman acts can never be called civil laws. The whole affair, as it is alleged, is one of the most devilish, cold-blooded and unjustifiable in the history of nations. (Loud applause.)

Look at the fun. In the North West Frontier Province the trouble is created on the *Shabbarat* day, which according to Christianity was the birthday of the peace-maker also—it being the 25th of December. The reasons given out by the Chief Commissioner for the arrest of Khan Abdul Ghaffar Khan are most unsatisfactory. So many excesses have been perpetrated by the authorities, and specially by the military and the police, that I do not find words to draw their picture and place it before the House. Firing on unarmed crowds and *lathi* charges on passers-by were very common affairs in the North West Frontier Province. We may have thousands of differences with Mr. Gandhi but nobody can deny that refusal to grant an interview to a person who requires it for the purpose of receiving guidance is far from being commendable. (Hear, hear.) Let it be granted for a moment that the refusal of Khan Abdul Ghaffar Khan to attend a certain durbar inspite of illness was a crime, Mr. Gandhi's threat to launch a civil disobedience movement was also against law, but why was Mr. Sen Gupta arrested and gaoled before he even landed on the shores of mother India. There can be no justification for such acts which the unborn generations will hear with surprise and will abhor the ways of this Government. Persons found to be guilty of any offence must be made to pay the penalty, but to make the innocents suffer is opposed to all canons of civilization and good government. (Applause.)

Sir, if these rumours of repression in the North West Frontier Province were incorrect and if the Government were honest in their dealings, why did they not allow such *Ulemas* as Mufti Kifayatullah Sahib and Maulana Ahmad Saeed Sahib to visit the North West Frontier Province, who wanted to go for the purpose of holding an enquiry on the spot? (Hear, hear.) Mussalmans in particular and the whole of India in general will never be a party to such enquiries as were or will be instituted by the Chief Commissioner. But Government may say that they allowed another deputation of Mussalmans to go there and to have an enquiry in the North West Frontier Province. But I will say that that enquiry cannot be said to be sufficient. On one occasion only, two hours' time was given to visit a place which was 30 miles off from one place. Another thing was that no one was allowed to speak freely. Members of deputations were not allowed to enquire into every matter freely, they were not allowed to go into all the jails and to see all the places they liked. There were many restrictions upon their actions. They could get only one version, *i.e.*, the official version of the affairs in North West Frontier Province. They could not get any other version, they could not

[Mr. M. Maswood Ahmad.]

see the other side of the picture. Will Government come forward and honestly say that the persons who held enquiries into these allegations had access to every place, every man and every jail? Were they free to talk and enquire from the persons who are in jails and was there no order forbidding them to visit certain places and certain prisons? I want a reply on these points. (Hear, hear.)

Sir, if the Government consider themselves free from any blame, let them not hesitate to allow a joint committee of the elected non-official Members of this Assembly to investigate into these matters in the North West Frontier Province without any restriction or reservation.

Sir, Mussalmans are placed in a very helpless plight, Hindus compel them to knock at the doors of the Premier, and the Government want us to come to an agreement with the Hindus and Mr. Gandhi. There can be only two alternatives, to confer with Mr. Gandhi, either to secure his release or to go to jails as prisoners. On account of these uncertainties, Mussalmans could not decide any thing, but such a state of affairs cannot last long and they are determined to take one or the other way—they are determined to decide one or other policy—they are determined to decide whether they should knock at the door of the Government or should seek any agreement with Mr. Gandhi and such a decision should not disturb those against whom it might happen to be.

Sir, if the Government are really in earnest about the advancement of self-government in the N. W. F. Province then the ground should be prepared for the same by not resorting to such acts which have no parallel in the history of civilization. Give a chance to those who want to co-operate in the task of constitution-making in a calm atmosphere and stop the policy of mischief-making forthwith. If immediate steps are not taken to prevent and stop the excesses that are being perpetrated by local authorities, I believe the whole of India will be involved in something terrible. There must be a limit to one's patience and the conditions in India at present are far from being satisfactory. I warn the Government to stop this state of affairs, otherwise the consequences will be on their shoulders.

With these words, Sir, I express my views on the Resolution so ably moved by my Honourable friend, the Nagpur Knight. (Applause.)

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 2nd February, 1932.

LEGISLATIVE ASSEMBLY.

Tuesday, 2nd February, 1932.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President in the Chair.

RESOLUTION *RE* RECENT ORDINANCES—*contd.*

Mr. President: The House will take up further consideration of the Resolution moved by Sir Hari Singh Gour.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Mr. President, I gave notice of a motion of adjournment for censuring Government for arresting Mr. J. M. Sen Gupta while he was landing in Bombay, after being absent from India for several weeks, under Regulation III of 1818. I did not press for that motion expecting now to get a better chance of discussing the wider question of the present situation that prevails in the country. Sir, at the very outset I am glad to say that I appreciate the turn of events that has taken place in this country. Now at the helm of affairs you have Sir Samuel Hoare, who like a true Briton says in effect,—and we found his echo in the words of our Home Member—that they are now out to reconquer India and he accepts the challenge of the country. I make bold to say—and I shall prove it later on—that it is the Government who have put forward this challenge, and on behalf of the country Mahatma Gandhi has accepted that challenge. It is no use denying that in the life of a nation a time inevitably comes when the nation must prove its worth and must prove before the bar of the world's public opinion that it deserves to be called a nation. Let no Englishman have the least remorse to say that this method of tyranny and repression was not tried. Do not use words of apology. Do not try to justify your measures in that way, but like true Britons as you are, say that you believe that might is right. It is good for the country as well; if by your repression you can destroy the morale of this great Indian nation then India does not deserve to exist as a nation, if you can crush it in that way. I am really glad at this turn of events. The Europeans, as Sir Hugh Cocke said, really do not believe in these conferences and arguments. Had it been possible to win Swaraj by arguments, I would have tried and everybody else would have tried. Mahatma Gandhi put forward all arguments but they were of no avail. There must be a chance for Englishmen to see that, in spite of all their repressions, they cannot kill this great nation. Let the fight be to a finish, so let them try to go on like this for the next three or four months. But why should there be any words of apology? As a matter of fact when I was going through the terms of this Resolution, I found that it was a very tame Resolution and I was hesitating whether I should support such a Resolution. But I do not care what the Resolution is; I do not care whether it is passed or not passed in this House, because I know that even

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if you pass it you have no guarantee from the Government Members that they will give effect to it. How did they treat you when, time after time, the Finance Bill was taken up and all the non-official Members, including even Mr. Yamin Khan's party, voted for you? Even now I have enough faith in those gentlemen who sit on the border line to believe that if they felt that in case this Resolution were passed Government would give effect to it, they would vote with us. But when we approached some of them they said,—it is no secret—what is the gain by having a majority vote? They will treat it in the same way whether you pass it or not. Some of them are aspiring for a Knighthood and some for some other favour. Why should we stand in the way of these gentlemen when we cannot gain anything by their votes? Therefore I say to the Government, give up that disguise and be frank and bold. You have now a National Government dictated by a Conservative majority. Let them see and be convinced. You tell the people that you will try unalloyed tyranny and repression, and if you fail, as you have failed everywhere, you will yield. To my friends on this side I say, what do you expect? Did they concede freedom without a fight to their own flesh and blood, the Americans? You will say that is old history. But see what happened the other day in Ireland. They had to pass through the same fire and bloodshed before they could get freedom. Really I do not stand here to apologise for those who are being repressed. There have been several deaths. Here in India we die in millions of preventible diseases. Why do you speak of a few deaths? It is the necessary consequence. If this country is to stand to its full stature, if this country aspires to have full freedom, it will have to pay the proper price through sufferings, troubles and tribulations. So I have no quarrel with the British Government. Let them have this fight once and for all. Then they will hear our words of advice. I do not forget that the Congress demands cessation from the British connection, they demand full and absolute independence. I for one believe that is premature. That is a great ideal and I know the whole world appreciates great ideals. But I as a reasonable man think,—and I think the whole country is with me though they very much appreciate the great ideal of immediate freedom,—that when the British people will find that there is no other solution of the present troubles but by some settlement, then alone the time will come for us to move such a Resolution and ask the Government to listen to our words. But what is the attitude of the Government now? They are not willing to concede anything. It is all camouflage. On the vital points about the Army and about finance they will not yield anything. They indulge in very fine speeches and say they are willing to concede this and that, but by way of safeguards they will take away everything. Sir, I had the good fortune of associating for a few years with the late Mr. C. R. Das who was considered a great extremist. He told me very often in confidence that he was willing to settle with the British Government once he was convinced that in 10, 20 or 30 years they would confer full Dominion Status to India. But I tell you frankly that people have no confidence in your *bona fides*. They do not believe in your words or that you are now anxious to yield. And why should you yield your trade advantages, your rights and facilities and the opportunity of domineering over such a large country? What sacrifices have we undergone up till now? Really such a struggle is necessary to prove our mettle. And so I am glad that Government have now come in with unalloyed repression. Let them try it for a few months and then the time will come for real settlement,

and that settlement will not be with the Congress alone or with this Assembly which represents none but the whole people of India. Your respect for this Assembly has been shown by your selections for the Round Table Conference. There are of course some estimable friends, but you have neglected all the party leaders. You took some from the Assembly because of their other worth, men,—I do not like to name them,—who would be helpful to you in displaying to the world that India is not a nation but a conglomeration of warring creeds. You selected your own people. In my opinion they can not deliver the goods. If you can break the Indian nation, if that is so, I repeat that India deserves to be crushed. But if we are a nation, if we can survive this repression, then a real settlement will be possible. It will not come about if we merely go on our bended knees. Our leader, Sir Hari Singh Gour, may pray for anything; he may move a timid Resolution; it may be passed or it may not even be passed. Even if it is passed it will be thrown into the waste paper basket.

But now because the Government pleads justification for the Ordinances I wish to say a few words. I represent the Chittagong and Rajshahi Divisions of Bengal. My friend, Mr. Anwar-ul-Azim also represents the same constituency; he represents the Muslim interests. Government have made a very fine distinction of Muslims and non-Muslims. And Mr. Anwar-ul-Azim thought it perhaps was not his duty to mention the fact that punitive taxes levied in Chittagong are laid upon the Hindus alone, perhaps at the dictation of the Home Member, and the Muslims are exempt from payment. I cannot understand it. The cardinal principle of Muhammadanism is the unity of God and the acceptance of Muhammad as Prophet. I myself subscribe to it. I believe in the unity of God and I believe Muhammad is his Prophet; but by that may I go beyond the mischief of your criminal law or any of your Ordinances? I say it is a most foolish thing to enact that because of one's religion he must pay this tax. I can give numbers of such instances. I can show, Mr. President, if you will allow me two or three minutes more, I can show conclusively, as my friend Mr. Abdul Matin Chaudhury did, that the Government really engineered this movement and challenged the people of India and therefore the people had no other way but to accept it, and Mahatma Gandhi could not do otherwise than what he did. In his humble way he prayed and begged and proved to the whole world that he was most anxious to understand and settle peacefully the Indian question; but before Mahatma Gandhi reached India, you arrest Jawaharlal Nehru; you proscribed his meeting and he postponed it in order to avoid a clash; you wanted him to curtail his movements; he told you he was going to meet Mahatma Gandhi and you arrested him before he started.

My friend wants me to speak of Chittagong. You have your Press censorship there and so people cannot know what is happening there and you cannot accuse me if I tell this House what I have heard. Searches are made at about 3 in the morning under the plea that the absconders may escape in the guise of women. The police search every man and woman and, what happens? How can a woman prove that she is a woman? I have heard of a number of cases—they may be true or they may not be very accurate—of women being molested in villages; they went and complained to the Gurkha Chiefs and they said, "You cannot expect ordinary soldiers to bring their wives along with them". These things are happening. (*Cries of* "Shame" from the Opposition Benches.) A case was reported—by whom?—the Indian papers are afraid even to publish this—

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the *Statesman* published the case where a woman was raped and her husband was taken away and assaulted by Pathans. The case came before the court; and there are so many cases like that. I can give any number. But, Sir, I congratulate my country on the splendid response it is giving. This House cannot voice it. Any one who reads a newspaper knows what is happening in every village throughout India. My friend, Mr. French, said that Subash Chunder Bose advised ladies to take up the work. What can happen when you put all the men in jail? The ladies shall have to go out; they have gone and they will go. I have no time, but I can show that what you have said is false. You are now abusing a man like Subash Chunder Bose. There are very few people here who are even worthy of unloosing the latchet of his shoes. I have lived with him for years behind the bars of prison and I know what he is. He is not for bloodshed or violence. But you are free here to depict him in any way you like. I know him much more intimately than you do. You speak of the Calcutta Corporation's resolutions. There is no time; otherwise I could justify every thing that was passed there and I shall do it on a later date because now my time is up.

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): Sir, at the outset I must express my regret at my esteemed friend, the Honourable the Mover, who justly enjoys the reputation of being perhaps the most learned lawyer in India, putting his name to a resolution so inartistic, so inconsistent and so inane.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran: Non-Muhammadan): You are echoing your master's voice!

Mr. N. N. Anklesaria: Apart from the fact that it drives a coach and four through the rules and Standing Orders of this House, apart from its absolute want of intrinsic worth . . . . .

Mr. K. C. Neogy (Dacca Division: Non-Muhammadan Rural): On a point of order, Sir. Is the Honourable Member justified in casting a sort of reflection upon the Chair in so far as he says that the Resolution drives a coach and four through the rules and Standing Orders? I think in saying that he is practically impugning the capacity of the Chair to interpret the rules in the proper way.

Mr. N. N. Anklesaria: I am not in any way protesting against the action of the Chair.

Mr. President: I take it that the Honourable Member had no intention whatsoever of casting any reflection on the Chair.

Mr. N. N. Anklesaria: Most certainly not. (Laughter.) I say, apart from its total want of intrinsic merit, this Resolution at this juncture is wholly ill-advised. My Honourable friends on the other side have been talking of inducing a peaceful atmosphere in this country for the discussion of the impending reforms. I ask them how the heat and eloquence generated here in this House at present is likely to conduce to a peaceful atmosphere for the consideration of the new constitution.

Mr. Gaya Prasad Singh: And the *lathi* charges outside!

Mr. N. N. Anklesaria: It has been said that this is meant to be a censure motion on the repressive policy of the Government against the Congress activities. I have looked into the Resolution very carefully, but far from there being any specific mention of any repressive policy of Government against Congress activities, I do not see so much as a remote allusion to such a repressive policy, and indeed such a remote allusion cannot possibly find a place in a Resolution which most unequivocally and whole-heartedly condemns all Congress activities. I say on this point alone one is entitled to remark, "Can inconsistency further go?". I was surprised at the Honourable the Home Member getting up and wasting so much of his eloquence on a Resolution which ought to have been treated by the Government with the contempt it deserves. When I heard him I was reminded of the knight of La Mancha riding full tilt with his puissant lance levelled against a flock of sheep. What has the Government to complain against in this Resolution? What is there which can bite any body in this Resolution?

As regards the recitals, there is nothing which can possibly be taken as a censure on the Government. In fact, Government could have with perfect justification said in the House, "Gentlemen of the Opposition, we thank you for not disapproving of our policy. As regards the acts of our agents in the execution of our policy, if you can give us specific instances of any misdeeds, we undertake to look into them. As regards Mr. Gandhi and his friends, whose names are mentioned in the Resolution, if they will undertake to give up those activities which you so whole-heartedly condemn, we will also look into their cases". As regards the three recommendations, I do not see that there is anything in those recommendations which could in any way evoke any disagreement from the Government side. The first recommendation most guardedly states that, "This Assembly recommends to the Governor General in Council that he should place before the Assembly for its consideration such emergency Bills in substitution of the Ordinances as he may consider reasonable and necessary". Well, I submit that the Governor General in Council is bound to bring before this House any measure which he thinks it is reasonable and necessary to bring before the House. (Laughter from the Opposition Benches.)

Then as regards the second recommendation, I think the Government could have said with great reason, "Yes, Gentlemen, we are prepared to give you a committee of inquiry provided it involves no extra expenditure on the exchequer and Members are willing to serve on it from patriotic motives and would not claim any allowances". (*Several Honourable Members from the Swarajist Benches*: "Oh, yes, certainly".)

Then as regards the third recommendation, Government could have said, "If the Opposition could show to the Government how the co-operation of the Congress could be secured, they would be quite willing to accede to the recommendation". However, Sir, this Resolution has been treated as a censure motion, and I will say a few words on it treating it accordingly. Before Honourable Members on the other side can blame Government for the present policy, I think they ought to give some credit to Government for knowledge of history, for ordinary common sense, I say for bare self-interest. Government as it is constituted at present could not possibly have embarked on their present policy without the most mature and the most anxious consideration. In fact, the history of the last 13 years proves to the hilt that this policy has been forced upon Government. All avenues of conciliation have been explored. Open defiance of constituted authority, and insults to Government officers have been patiently borne for this long period, and borne to an extent which has not only aroused the unqualified censure, but what is worse, the most unequivocal and undisguised contempt of the most ardent supporters of the British connection. All this forbearance, all these attempts at conciliation have

[Mr. N. N. Anklesaria.]

been wasted. On the contrary, they have made the enemies of India more bold, more recalcitrant, more intransigent, and when at long last Government, realising that the discontent of the peaceful, law-abiding citizens on account of their failure to perform their primary duty, was fast turning into disaffection, when at long last Government finding that loyal citizens exasperated by the tyranny of the Congress and despairing of Government protection were not hesitating to take the law into their own hands, I say, Sir, when at long last Government finding and realising all this wakes up and takes the only possible measures which can enable them to cope with the situation, up gets my friend on the other side and brings forward this motion which he calls a censure motion . . . .

Mr. B. Das: He did not call it a censure motion.

Mr. N. N. Anklesaria: Now, what does he expect by bringing forward this Resolution before the House? Does he expect this House to put its seal of approval on the doctrines of sedition and anarchy? Does he expect the Government to retrace their steps and stop measures which the activities of the Congress have called forth before those activities cease? Does my friend expect that Government should fold their hands and helplessly look on while the forces of violence, disorder, of murder and anarchy are working their will on this unhappy long-suffering land? I am quite sure, Sir, my Honourable friend the Mover, who himself has suffered so much from the Congress tyranny expects or desires nothing of the sort.

Again, Sir, look at what Mr. Gandhi and his friends have been doing. Just consider what they have been aiming at; just consider what they have sworn to accomplish. *(An Honourable Member from the Swarajist Benches*: "Freedom of the country".) I need not go into details . . . .

Mr. Gaya Prasad Singh: Your time is up. (Laughter.)

Mr. President: Order, order.

Mr. N. N. Anklesaria: If my time is up I cannot go on. (Laughter from the Swarajist Benches.)

Mr. President: The Honourable Member has got one minute more.

Mr. N. N. Anklesaria: Well, Sir, as my time is up, I would conclude by saying that I whole-heartedly join in the protest which my friend Diwan Bahadur Mudaliar has made against the Government treating this House so very cavalierly by not bringing these Ordinances before the House . . .

Mr. Gaya Prasad Singh: Then why don't you vote with us for the Resolution?

Mr. N. N. Anklesaria: As this is intended to be a censure motion, however, I cannot possibly support it.

An Honourable Member: Who has intended it?

Mr. N. N. Anklesaria: Much as I have thought over it, I see nothing wrong in what the Government have been doing and nothing to deserve any censure whatsoever.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): I do not think that I can do justice to the Resolution, important as it is—I do not think that even the proverbial hurry and hustling of an American can do that and finish his speech within 15 minutes; still I will try to make the best of the time that is before me.

Believe me, Sir, that I am not a little surprised at the attitude that has been taken up by the Treasury Benches, and others in opposition to this Resolution, which I consider to be most modest, most sane and most sensible. Sir, I am not used to employ acrimonious terms towards any Honourable Member, but from what I have heard from Mr. Anklesaria, I must only say that he acted as one who is more loyal than the King himself. On this Resolution to be so light-hearted is a sin. We are all in such a condition in the country that we must weep and not laugh. In these circumstances, believe me, I feel it very much when I see that the Government do not stretch forth the hand of conciliation with regard to this Resolution.

Sir, let us examine what this Resolution asks for. It no doubt condemns the present repressive policy of the Government, but at the same time disapproving of the terrorist movement, it asks Government to come out and do what is needed and what is right for them to do, namely, to extend their hand of conciliation. That is what the Resolution aims at. The Resolution says, do not ignore the Legislatures through which only the law could be made. It requires the Government to co-operate with the Legislature and tells them that they should not stifle the Legislature of India. We are called here to virtually pass only small Acts such as the Companies' Amendment Bill, the Workmen's Amendment Bill and the like, whereas simultaneously, while the House is in Session, the Governor General is passing orders which vitally affect the country. The Government of India Act—I shall presently deal with that when I come to the constitutional aspect of this Resolution—requires the Governor General to pass Ordinances only to bring about peace and not to wage war. Was there not peace in the country when Mahatma Gandhi, the leader of the Congress, who has much support in the country, went to the Round Table Conference? Did not the truce bring about peace in the country? It is now well known that even Mahatma Gandhi was not allowed on his return to take part in the Round Table Conference Committees. As soon as he arrived he was arrested along with many other leaders, and yet Government say that the Ordinances are intended to restore peace in the country! Destruction and construction cannot go on together. No Government have ever destroyed the country and then governed it. It is the goodwill of the country that is the bedrock of all governments. Why do not Government accept this alternative and seek goodwill? Do they want that the country should be full of Congressmen to oppose them with non-violence? Or do they want that there should be terrorists all over the country to meet them? Or do they want the goodwill of the country? If they want the goodwill of the country, then let them come forward and accept this Resolution, this most modest Resolution, which only asks them to operate through the Legislature of the country, and to give the constitution which the country reasonably demands. They are having the Round Table Conference Committees, and at the same time they are launching repression of this extreme nature. Now, Sir, I am not going into the controversial question as to who is to blame for having created this situation. Reference was made to it by His Excellency the Viceroy when he addressed this House, but that is a controversial question. The Viceroy said that the blame is on the Congressmen, while on the other side there are many people who say that the whole blame is on Government. But I shall merely say that the arrest of Mahatma Gandhi, and the other leaders without giving them a chance to come and co-operate show what the true position is. However, that being a controversial point I do not want to enter into its details.

[Mr. Lalchand Navalrai.]

Coming to the question as to how these repressive measures are operating, take it from me that it is not only in Bengal and the North West Frontier Province where this brutality is going on, but it is going on throughout the whole of India. Sir, yesterday, the whole case was given away by the Foreign Secretary when he told us an old adage. He told us that where bulls fight the grass is trodden. I ask him, why does he not see that the bulls do not fight? Who has made the bulls to fight and thus tread on the grass? The Honourable the Foreign Secretary was correct, absolutely correct, when he said that the grass is being trodden. In other words, other people, who do not profess to be Congressmen, other people who are not terrorists, are not free at all from this molestation. I may say that in my 'Sind' where the majority of the people are not Congressmen, the same brutality prevails. *Lathi* charges and firing are indiscriminately carried on and other innocent people are also being injured. In one word I may say that there is no one in India who is not exposed to the hardship and danger of this repressive regime.

In regard to the constitutional aspect of the question, it has been said that the making of these Ordinances is improper. I say it is illegal. I have read the jurisprudence of the British nation and I will say that that jurisprudence makes these Ordinances illegal. I have very little time but I shall hurry up through the whole history of it. In the 14th century the question arose whether the Crown in Council or the Crown in Parliament could make laws. And whether independently of the Crown in Parliament, the Crown in Council could make Ordinances. The question arose over the King in Council making an Ordinance of Staple. Staple was a market in towns. The Commons disputed the authority of this Ordinance, and the King promised that steps should be taken to publish the Ordinance of Staple, and in the next Parliament it should be rehearsed and put on the roll of the Parliament. The Parliament confirmed the Ordinance but provided against further dealing with the matter save by consent of Parliament. The history does not end there. Legislation by Ordinance, which had been so denounced at the end of the 14th century, disappeared during the 15th century but revived in the 16th, though it endured for a short time. This is from "Anson on Constitution". In Queen Mary's time Ordinances were called in question but the judges at once assigned to them their true legal character as statements of existing law and not sources of new law. Then the Tudor queens continued to legislate by way of Proclamation more freely and James the First followed the same course. The question then again arose during the time of Justice Coke when he and his brother judges decided the legality and gave an opinion:

"The King's prerogative is ascertainable by rules of law and is limited by those rules; he cannot make new nor alter existing laws nor create new offences nor constitute new courts for trial of offences otherwise provided for. He is the executive; his business is the enforcement of the existing law."

The Star Chamber was then functioning and when its jurisdiction had been abolished by the Long Parliament, Anson's book says:

"We hear little more of this encroachment of the Prerogative on the rights of the Parliament."

An episode of the 18th century furnishes an illustration when the Ministers of the Crown got a Royal Proclamation of a measure in view of a great scarcity occasioned by a bad harvest. The Parliament met and severely attacked the Ministers for the illegality of the Proclamation and after an acrimonious debate, an Act of Indemnity was passed in favour of the Ministers. So, Sir, the British legislators have always vindicated the abuse of their powers. Then, lastly the question came to the forefront in 1914 at the time of the Great War, yet the principle was not departed from and on account of far greater emergency the difficulty was met by Parliament passing an Act called the Defence of the Realm Act, 1914. So the legality of passing Ordinances was never admitted by the British. Now, Sir, what is the Indian constitution. What does section 72 aim at? Section 65 of the Government of India Act says the Indian law will be made by the Indian Legislature and then section 72 lays down that Ordinances can be made by the Governor General in Council for the purpose of keeping peace and order. This does not depart from the principle that has been enunciated and vindicated by the people of England. It does not give a blank cheque to the Viceroy to pass any Ordinance of this nature. He can pass such Ordinances only as do not come into conflict with the existing law. He cannot make any new laws or create new courts by Ordinances. Thus it is quite plain that the Ordinances as made are illegal, and I think every jurist and lawyer should take that view. The British people cannot possibly stultify the principle that they have been fighting for at all times either in England or in British India. Sir, I have done.

Mr. R. K. Shanmukham Chetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): Mr. President, in my experience as a Member of this House for the last eight years I have not come across a non-official Resolution which for its tone of reasoned moderation would surpass the one that is under discussion before the House today; and yet my Honourable friend the Home Member chose to describe this Resolution as a piece of mosaic, as a composite document and as consisting of incompatible sentiments. He did not choose to expand his ideas in order to show to the House in what sense the Resolution consists of incompatible sentiments. My Honourable friend the Home Member and the Government of India surely cannot have expected that in the face of the serious crisis with which the country is faced today this House will refuse to take note of that crisis. My Honourable friend spoke of this Resolution as a vote of censure, and he confidently expected that the House would pass a vote of confidence. If, Sir, the Government of India were properly constituted as Governments in other countries are in the face of a crisis of this nature it was clearly the duty of the Government to come before the Legislature with a clear demand for a vote of confidence. My Honourable friend not having had the courage to face the issue in that manner, we had no alternative but to table a Resolution of this nature. I fail to see in what sense this Resolution consists of incompatible sentiments. Any one who reads the Resolution with an impartial mind would discover in it a clear enunciation of the issues with which the country is faced today. I find in the Resolution three distinct issues raised. Firstly, who brought about this crisis, secondly, have the Government of India acted constitutionally in facing this crisis, and thirdly, have the agents of the Government been humane in carrying out the orders of the Government?

[Mr. R. K. Shanmukham Chetty.]

These are the three distinct issues raised by this Resolution. I for my part fail to see in what sense these are incompatible sentiments. In the time at one's disposal it is not possible for any one speaker to dilate upon these three definite issues raised in this Resolution. When the ashes of controversy have died down in the furnace and when the future historian of India comes to write the history of these times, he will then write that this crisis was brought about by the die-hards of the Government of India, and the die-hards of the Congress together. The future constitutional historian, when writing of the history of these times, again, will remark how the Government of India, faced with a serious crisis, threw into the waste-paper basket the constitution enacted by the British Parliament, and abused the power of Ordinances which the authors intended for entirely different purposes. I do not call the Ordinances unconstitutional, but I maintain that the authors of the Government of India Act clearly intended that the Viceroy must exercise his power of Ordinance-making only when he is faced with a crisis and the Legislature is not in Session or when the Legislature unreasonably refuses to grant sanction to any of the demands of the Government. May I ask if either of these two justifications can be given by the Government of India in support of the measures which they have put on the Statute-book without the consent of this Legislature?

I shall leave these two aspects of the question at that and shall come to the third aspect. Have the agents of the Government of India adopted humane methods in carrying out the Ordinances? My Honourable friend the Home Member said that the application of these drastic measures is carried out in moderation and in strict discipline. My esteemed friend Mr. Moore said that Members on this side contended that nobody's life was safe, that atrocities were committed and that he was sadly disappointed because no speaker on this side of the House filled up the picture. Sir, in the time at my disposal I shall fill up that picture, and in filling up that picture I will not give exaggerated stories of what one hears or what one reads in newspapers but of incidents which have come to my knowledge in my own small place of Coimbatore. When this so-called war began, four of the Congress volunteers started picketing on a certain day. I have been told by responsible advocates that with regard to the use of force the Ordinances give no more power to the police than the power already given to them under the Criminal Procedure Code. And yet what happened, Sir, in that place? There was no crowd gathered, and yet every one of these Congress volunteers was absolutely and mercilessly beaten. On that day, again, how was the leader of the Congress Party in that place, for whom by the way I hold no brief, beaten? He was not taking part in the picketing activities. I have got the authority of a respectable eye-witness, who is a personal friend of mine, to testify to this fact. He was watching this picketing sitting from a particular shop. The policeman comes and tells him, "You ought not to sit here, and you must clear out". The man gets out and sits in another house about a hundred yards away. The policeman again comes and follows him to that house and says, "You ought not to sit in this house either; you must get away". This man gets up and goes in a direction, mind you, opposite to the scene of picketing, and, as soon as he walked ten yards, half a dozen constables followed him and, on the road, they belaboured him mercilessly with *lathis*. (*Cries of* "Shame, shame", "disgraceful"). Is this, Sir, the Honourable gentleman's idea of the application of these drastic measures

"in moderation and in strict discipline"? And what happened in a small village near my own place? A volunteer actually succumbed to the injuries resulting from *lathi* charges! My Honourable friend, Mr. Ranga Iyer, spoke of the case of Dr. Paton in Madras. If only the Government of India were honest and instituted a proper inquiry into the case of Dr. Paton, then, they would have a sample of the methods of their agents in the provinces. A man is mercilessly beaten on the high road for no other cause than that he wears khaddar! And in justification of the beating, some charge is foisted upon him! If Dr. Paton was arrested under the Molestation Ordinance, may I ask, "What was the justification for the Local Government withdrawing the prosecution against him?". I do hope, my Honourable friend will make a due investigation into this case.

Only this morning, Sir, there is a report in the *Hindustan Times* about another example of the way in which "strict discipline" is observed by the officers of the Government in carrying out the Ordinances. In this case it is not an illiterate policeman that is concerned but it is an I. C. S. officer, the Magistrate of a place, called Tellicherry. Two ladies were charged before this Magistrate under certain of these Ordinances, and a fine of one thousand rupees was levied on one of them. The Magistrate, a European member of the I. C. S., asked one of these ladies to take away and surrender all the jewels that she had on her person. The lady immediately took off those jewels and surrendered them to the court. Everyone knows that for a Hindu married woman there is one insignificant piece of jewel round her neck the value of which is nothing—it probably costs five rupees—but which to her sentiment is the most sacred—it is called the *thali* or *mangalia* in Madras. It is a small piece of ornament worth about five rupees which the husband ties round the neck of the bride at the time of marriage, and it is only taken away when the husband dies. Now, nothing can be more distressing to a Hindu woman than any tampering with this small ornament that she wears, and yet this European Magistrate—a member of the boasted Indian Civil Service (*Cries of* "Shame, shame") asks this woman to take off her *thali*! She explained the significance of it, an advocate explained the significance of that, and yet, Sir, this agent of the Government of India, who was carrying out these drastic measures "in moderation" and "in strict discipline" . . . . .

Mr. Arthur Moore (Bengal: European): May I say that the report did not say that that had been done by a European Magistrate?

Mr. R. K. Shanmukham Chetty: It was done by a European Magistrate; his name is Mr. Dodwell.

Mr. C. S. Ranga Iyer: The *Statesman* has suppressed that report! (*Cries of* "Shame, shame.")

Mr. President: Order, order.

Mr. R. K. Shanmukham Chetty: Sir, this European Magistrate asked one of the policemen in court to *forcibly* remove this *thali* from her person, and then this woman asked her co-prisoner to give it into the hands of the court. I ask my Honourable friend, the Home Member, whether, in the face of these instances taking place in the provinces, he would still get up in this House and honestly say that his agents are carrying out these drastic measures "in moderation and strict discipline"? Sir, usually, as you know, I do not get excited when I talk in this House, but

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when one hears of such instances taking place every day in the provinces, it is difficult to hide one's feelings, and that, Sir, is my excuse if I deviate somewhat from my usual course. In fact we are not in a position to know what is taking place in the provinces. On the day that the incident that I mentioned occurred in Coimbatore the reporter of one of the papers went to the Telegraph Office to send a report, and the Telegraph Master there said that he would not take in any report unless it was countersigned by the Collector. Then when he took this report to the Collector, the latter said, "You cannot send this report. Take down what I say" (Laughter). And he had to send the report dictated by the Collector. Next day in the shelter of his room he wrote a letter to his paper giving a description of the incident, but after this came out, he was sent for by one of the authorities of the place and he was asked to contradict that report himself (Laughter). That is the way in which censorship is carried on.

Then, here is another case. My Honourable friend Mr. B. Das—than whom it is difficult to imagine a tamer and a quieter person (Laughter) happens to be the editor of a paper, and he published on the 11th January in his paper a signed article called "The Wrong Move". Well, Sir, I gave this article, after reading it, to my friend, Mr. Jagan Nath Aggarwal and asked him to put himself in the place of the public prosecutor of his place and to underline those passages which he would place before the court if he were asked to charge Mr. B. Das under the Ordinance. Well, my Honourable friend did not succeed, and yet my Honourable friend, Mr. B. Das, gets this warning:

"I am desired to invite your attention to the article which appeared in the Young *Utkal*. This article appears to the Government to almost come within the mischief of the Press Act." (Laughter.)

and my Honourable friend has been warned.

Sir, these are the ways in which the agents of the Government of India are carrying out the Ordinance "in a spirit of strict discipline and moderation". Sir, I am not out to blame these poor agents and policemen. They are permeated with the spirit that rules in Whitehall. We have an example of that spirit in the broadcast speech of His Majesty's Secretary of State for India (Hear, hear) wherein he said, "Though the dogs bark, the caravan passes on". I suppose by "the dogs" he meant the howling Indian public, and by "the caravan" he meant himself and those round him here and in England. But, Sir, let me say, with due apologies to Oliver Goldsmith:

"And in that caravan a dog was found,
As many dogs there be,
Both mongrel, puppy, whelp and hound
And curs of low degree."

(Loud Applause.)

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Mr. President, the speeches that we have listened to since yesterday, and especially the speeches delivered by the Honourable the Home Member, Sir James Crerar, by the Honourable the Foreign Secretary, Sir Evelyn Howell, and by two unpaid members of Government—the leaders of the European Group ("Hear, hear") have made the issues now before the House absolutely clear. The main issue is whether this House will sanction "government by ordinances" as contrasted with "government by the ordinary law enacted by the Legislature in the ordinary way". Sir, that is the principal issue that arises under these Ordinances. I believe every Member of this House has gone through these Ordinances; but I must admit that when I read the Ordinances, especially the Ordinance regarding the North West Frontier Province, I could hardly believe my eyes. What is the effect of it?

Mr. A. H. Ghuznavi (Dacca *cum* Mymensingh: Muhammadan Rural): How many Ordinances did the Honourable Member himself promulgate when he was a Member of the Bengal Government?

Sir Abdur Rahim: I never promulgated a single Ordinance.

Mr. A. H. Ghuznavi: The Honourable Member may have defended Ordinances in the Bengal Council.

Sir Abdur Rahim: I did not defend a single Ordinance in the Council. Sir, the effect of the Ordinances, of which the North West Frontier Province Ordinance is the model and the type, is this. Every vestige of right and every sort of liberty has been taken away from the people altogether. It is not a question of suppressing certain movements or punishing certain crimes. It is not the question that there is a civil disobedience movement and special laws are required or amendment of the ordinary law is required. It is not the question there is a campaign, what is called the no-rent campaign, and there has to be framed a suitable law to meet that campaign. That is not the scope, that is not the intention of these Ordinances at all. The clear scope of the Ordinances is to deprive every one of every vestige of right—right to personal integrity, right to liberty, right to property, rights of association, and every right that a human being is capable of having. That is the scope of the Ordinances and we are asked by the Honourable the Home Member to give him and the Government a vote of confidence, that is to say, to sanction these Ordinances for the governance of the country. Now, Sir, I do not know what has inspired Sir James Crerar with so much confidence that we the representatives of the people are going to sanction this kind of law if law it can be called. He must hold us in very great contempt; he must think that we have no judgment to exercise and that we cannot understand the plain meaning of plain words or that we are all lost to all sense of self-respect and honour. Can an Indian, who finds that he is deprived of his liberty and everything that he holds sacred and dear, with any self-respect tell the Government that he has confidence in them and that what they have done is right and sanction that? Can the Honourable Member really believe this? I am sure that he cannot believe it. Sir, I say it is a mere piece of bluff. It is very difficult indeed to find words to describe such an attitude on the part of the Government.

12 NOON.

Sir, a great deal has been said as regards the way in which these Ordinances are being applied in different parts of India, especially in that devoted province, the province of my friend Sir Abdul Qaiyum. Maulana Shafee Daoodi went there the other day to see for himself how things were happening because we have been receiving all sorts of horrible accounts of the state of things in the Frontier area. He has told us in extremely

[Sir Abdur Rahim.]

moderate and restrained language what he himself has seen there. He has told us that the people are terror-stricken from one end of the country to the other. They dared not even speak to him. They could not open their lips as to what was taking place in the country. This is the impression he gathered, and he has told us that. He had a lot more to tell us but he had not the time. Every one who heard him speak drew this inference that there is very much more behind than he gave out in this House. Now, Sir, I heard with great attention what Sir Evelyn Howell has told us. He has in fact only confirmed the impression given by Maulana Shafee Daoodi. The things that one has heard are simply indescribable and I find it impossible to describe them to this House. We want only an impartial committee of inquiry. Let some of us go there and see and satisfy ourselves what there is really wrong. If we can confirm Sir Evelyn Howell, so much the better for him. Why should he not trust us? Or are the facts such that they do not bear investigation from an outside body? That is the only inference we can draw if the prayer in the Resolution that a committee should be appointed to inquire into what is taking place in that province is not accepted by the Government.

What is the second prayer in the Resolution? We want Government to produce a proper Bill before this House to enable us to consider what is the mischief the Government want to strike at, to tell us what is the mischief they want to strike at. Ask the Law Member and the Legislative Secretary to frame a proper Bill. This is not beyond the ingenuity of a human being and of accomplished lawyers like these gentlemen. If the law is defective in any particular respect in order to meet certain evils, surely they can draft a proper Bill and place it before the House with proper provisions to meet the situation. Why should not Government do that? The only inference we can come to is that their intention is not merely to strike at a certain mischief or to suppress certain evils. The Government really want to go further. Sir Hugh Cocke has told us, "Now we have real government in the country. Hitherto they had been playing at governing the country. All the courts and the police, the Criminal Procedure Code and the Evidence Act, were a mere farce. Now we have got a proper Government". How delighted Sir Hugh Cocke and Mr. Arthur Moore are. We know now where the inspiration has come from. Pray, why do they want government of this sort? Because they want indeed to prepare the ground for Swaraj, Dominion Status and a free constitution. They are preparing the soil for freedom by destroying altogether the little freedom they have given us. And that constitution, Sir, is to come within a few months or a year and six months. Do they really believe what they say? It is impossible for anyone else to take them seriously at their own estimation. Now, Sir, they say, "How can any constitution work unless you restore peace and order?". For a hundred years your laws have been in promulgation and in operation, and your numerous courts have been working. Have all these Magistrates and Judges failed? All of a sudden they find out the true remedy and what is that remedy? Government can authorise any police officer, any military officer, any Magistrate they like to do whatever he likes. He can arrest a person on the spot and can keep him imprisoned for 15 days or even longer. He can take away his property, prohibit him access to public places and prohibit him from using the railways, the post office and the telegraph office. That is the law of this Ordinance. That is the real law they want. They want that as a preparation for Swaraj, for a free

constitution. Do they mean that we are such children that we can accept that sort of statement, such an explanation or apology. It is incredible that even the present Government could put forward such a plea. Why not tell us "We are making an experiment; we are seeing whether we can rule India in this way or not". If they succeed, what then? Do they really achieve their object? I ask seriously, will that revive their trade. Will that revive friendly and good feelings between England and India? Is it to their benefit? No doubt they have got the power, they have got bombs, aeroplanes, tanks, and poison gas, everything at their command. They can devastate the whole of India, I admit, but by devastating India, they ruin India, but at the same time they ruin England (Hear, hear). Are they really serious in pursuing this policy? If it is a mere experiment, they must know that it will fail, it is bound to fail. What then? It only leaves bitter memories behind. It makes the future task, the task of reconciling the people of India far more difficult than it is at present. I am not holding any brief for the Congress, I have never been a member of the Congress; I have denounced many activities of the Congress publicly and without any reserve. But that is not the question. They are depriving the entire people of their elementary fundamental rights. That is the point. That is where really I feel that Government are erring most grievously, most seriously. They are not paving the way for better feelings between the two countries. I ask the Government with all respect to seriously consider the position, and if they really believe that there are certain movements—I believe there are—which require to be checked, I believe it is possible to frame reasonable laws to be administered by the ordinary courts of law, in order to check and eradicate those movements. Why not ask the Law Member, ask the Law Secretary, ask the other legal luminaries that are in Government service, ask them to frame a proper Bill and place it before us?

An Honourable Member: You will reject it.

Sir Abdur Rahim: That depends on the necessities of the case. If the Bill goes beyond the necessities of the situation, we shall reject it, or we shall modify it, but surely, Government can check by reasonable methods all mischievous movements. Government have got a certain number of votes at their command and therefore they are not so helpless. I am absolutely sure that when Government bring forward a reasonable Bill, they can get it passed and that will really strengthen their hands. All these Ordinances are merely ephemeral measures and they will retard the progress of any constitution and will embitter the feelings all the more between the two countries.

The Honourable Sir George Rainy (Leader of the House): I should wish, Mr. President, at the outset to address myself to clause (1) of the operative part of the Resolution. No one who knows the kindly character of my Honourable friend, the Leader of the Nationalist Party, would accuse him of lacking a sense of humour, but sometimes it seems to me that his sense of humour is slightly obscured. That clause of the Resolution which he moved asked the Government to come to the House and confide in it in order to obtain all the powers Government consider reasonable and necessary. I confess that when I read the words "reasonable and necessary" I was not quite sure whether my Honourable friend meant what I might consider "reasonable and necessary" or perhaps what he considered "reasonable and necessary".

Sir Hari Singh Gour: This House, both of us, it is not for you alone.

The Honourable Sir George Rainy: The Resolution says "as he may consider reasonable and necessary" and 'he' in this case is the Governor General in Council. When my Honourable friend devoted more than half his speech to proving that the powers which the Governor General in Council had considered "reasonable and necessary" were beyond the competence of the Indian Legislature to pass, I thought that for the moment his sense of humour was not so keen and vivid as it sometimes is. I do not propose,—I am not competent indeed—to deal with the constitutional point, but there are certain other points which have been raised on which I should like to say something. It is said that, if the Congress were making preparations all through the year for the renewal of the campaign, why did not the Government come to the Assembly in September or in November and place before the Assembly the measures they considered necessary. I would ask this House to consider what the position of the Government would have been in these circumstances if, before the emergency had actually arisen and the danger point had been reached when we could hold our hands no longer, we had come to the Assembly and said, "We think it is probable that the need for these powers will arise, and we ask the Legislature to arm us with these powers in anticipation". Would that have been a reasonable course for Government to adopt, especially at a time when the constitutional discussions were proceeding, and both the Government and the Assembly were anxious to avoid what might interfere with the course of these discussions? (Hear, hear.) Had we come forward with emergency proposals of that kind not to meet an actual emergency but a possible one, the House would have refused, and I think rightly refused, to arm us with powers to meet a contingency which has not yet arisen. Now, Sir, when the actual emergency occurred at the end of December, it became necessary, if a very grave calamity were to be averted, that action should be taken. Honourable Members may ask, why could we not call an emergency session and place a Bill before the House and see what the House said to it. If I am asked why Government did not adopt that course, my first reply would be that even to summon an emergency session involved some time and time was the one thing which we could not afford to lose; but I would go further than that. This is not the first time that Government have had to place before the House measures involving in one way or another unusual interference with the liberty of the subject, and we could not dismiss from our minds the recollection of what had occurred on some of those occasions. We have not, some of us on this side of the House, altogether forgotten the discussions on the Public Safety Bill some three years ago, and the somewhat active policy of obstruction with which the progress of that measure was impeded. Some of us even had recollections of the Press Bill in Simla; and I think that if I had appeared with an emergency Bill before this House, the very first motion that would have been moved by my Honourable friend Sir Hari Singh Gour would have been that the Bill be circulated to elicit opinion thereon. (Laughter.) Therefore, Sir, it did not seem to the Government of India that to call an emergency session and to bring a Bill before it was the proper way to meet the crisis.

Now, another difficulty arises. Supposing we had put all the details of the Ordinances before the Assembly, it like any other legislative body would have wished to give it a detailed scrutiny, and that again,—even though there was no question of circulating the Bill—does involve considerable expenditure of time. And meanwhile the dangerous agitation which was

threatening the gravest danger to the country was going on, and what would the position of Government have been then? In similar circumstances in a country with full responsible government, I can imagine that, if the Government had a sufficient majority in its Parliament, it might produce a detailed legislation, suspend all Standing Orders and pass the whole thing in 48 hours. But much more probably the course adopted would have been a different one, namely, the course adopted by His Majesty's Government in Great Britain as recently as September last when they passed through both Houses of Parliament very rapidly an emergency Bill giving all sorts of extraordinary powers to the executive Government, or by His Majesty's Government in the Free State of Ireland on a still more recent occasion. The plan I am considering means legislation very much on the lines of the Defence of the Realm Act which was passed during the war, by which the power of sub-legislation to a very extensive extent was conferred upon the executive Government. Now, Sir, if the Government of India had put a measure before the Legislature it would have been necessary to proceed in that way owing to considerations of time. But if we had asked the Indian Legislature to confer upon the Executive Government extensive powers of sub-legislation, I do not know, Sir, but I am a little doubtful whether my Honourable friends opposite would have given quite such a cordial and friendly reception to such a measure as some of the remarks made during this Debate might lead one to expect. However, Sir, I do not wish to devote too much time to this point, and when my Honourable friends opposite ask us what Government are likely to do should the powers we have taken unfortunately require to be extended, I would merely say this that perhaps by tomorrow evening we may be in a better position to judge what is the wisest course, because tomorrow the House will have an opportunity of expressing its opinion on a Bill introduced last year which, I may mention, was circulated in order to elicit opinion thereon. I think perhaps when we have heard what my Honourable friends opposite have to say on that Bill we shall be in a better position to assess the importance we ought to attach to what they have been telling us of the readiness of the House to give the Government reasonable powers. But meanwhile we are not going to assume that the necessity for these extraordinary powers which have been taken will continue for a very long period, for indeed we should be very sorry prematurely to come to any such conclusion.

Now, Sir, I want to turn to the second clause of the operative part of the Resolution, and I must be brief for my time is limited. I should wish to emphasise again what fell from my Honourable friend the Home Member on this point that it is the desire and intention of Government that these drastic and extraordinary powers should be exercised only to the extent necessary. And for a very obvious reason. That is their desire and their intention because excessive severity in such cases always defeats its own object. I frankly admit that. Now, as regards certain cases to which my Honourable friend Mr. Chetty and others have drawn attention I should like to say this that when specific cases are given, specific cases in which the powers are said to have been abused, I do not believe that any Local Government in India would refuse to make suitable inquiries. As to the merits of the particular cases, naturally he will not expect me to deal with them because it does not fall naturally within my province. But I would wish to deal briefly with what has been said about the North West Frontier Province. When my Honourable friend

[Sir George Rainy.]

Mr. Shafee Daoodi rose yesterday I had expected that he would devote the whole of the time at his disposal to telling us what he had seen during his mission to that province undertaken with the full concurrence of the Government of India and of the Local Government. In fact, however, Sir, he devoted the first five minutes of his speech to a totally different clause of the Resolution, and I was never more surprised in my life when I heard him adopt that course. I listened with the greatest care to every word he said, but I must quite frankly say that on the case he presented,—and he was in a better position I suppose than any other unofficial Member to present that case,—I do not think he succeeded in making out a reasonable case for an inquiry of the kind contemplated. But I would repeat what my Honourable friend Sir Evelyn Howell said yesterday that, if specific cases are brought to our attention, we shall certainly draw the attention of the Chief Commissioner to them and see that proper inquiries are made.

Now, Sir, before I sit down I wish to deal with clause 3 of the Resolution. The implication of that clause is that Government need an admonition because it is not their desire to bring all parties, all communities and all organisations in India into the constitutional discussions. I say that is the most preposterous proposition that has ever been put before this House. What has the whole policy of Government been through the last year? What risks did we not incur in order to bring about that very result so that all parties and all communities in India should take part in these discussions? We are not to assume that my Honourable friends opposite put forward this clause in their Resolution as a pious platitude. If it means anything at all it means that they think they are entitled to censure Government for not taking appropriate action in that direction, and I repudiate that insinuation. It has been the declared policy of Government, the policy on which they have acted and the policy in which, if other parties give them a chance, they are determined to persevere.

Mr. Jagan Nath Aggarwal (Jullundur Division: Non-Muhammadan): Sir, I have listened with great care and attention to the speech of the Honourable the Leader of the House, and I must confess that I was considerably disappointed. I expected a justification for this extraordinary resort to Ordinances. One may be permitted to mention that this Ordinance-making power originated in the year 1861, and at that time, as my Honourable friend Mr. Puri read yesterday, Lord Ellenborough in the House of Lords sounded a note of warning that he was not prepared to trust any one single individual to make laws for a whole country not only without going to his Legislative Council but, so much so, without consulting them. Now, Sir, this power practically lay unused from that year for well nigh 50 years. Resort was had to it during the war and for a very good reason. But the extraordinary use of it during the last two years needed a word of justification, and what is the justification that the House has received? We are told that if the Government had come to this House in September for arming the executive Government with powers to deal with an emergency that had not arisen, we would have said to them, "You are coming prematurely". We are told that if the Government had come at the time of the emergency, we would either have delayed the measures by our blocking motions or we would not have passed them, and that we would have taken a lot of time as in the case of the Public Safety Bill and therefore the Government could not consult us on either of those two occasions. But, Sir, that is precisely the point of this Resolution. If you could not consult us before the emergency had arisen, and if you could not consult us when the emergency arose, you can certainly consult us now that the powers have been taken and this House is sitting. We now ask you that the Governor General in Council should:

"place before the Assembly for its consideration such emergency Bills in substitution for the Ordinances as he may consider reasonable and necessary in order to enable this House to function effectively as intended by the Government of India Act."

Some emphasis was laid on the words "such as he may consider necessary", but it is the privilege of the executive to place Bills for consideration as may seem to them to be necessary. It is then the duty of this House to consider them and give its assent to them or not. No one can therefore take objection to this part of the Resolution; and as my learned friend Mr. Anklesaria from that part of the House, after furious thinking, came to the conclusion that this was a very innocent part of the Resolution, I am surprised that it was not very eagerly accepted by the Treasury Benches in spite of his advice. He could find nothing objectionable in this and neither do I.

I am afraid the whole point underlying it has been treated as a vote of censure. If it is a vote of censure, then it is there; if the battalions of the Government wish to defeat it, we wish them joy of it; but the responsibility is a serious one. If you treat this as a vote of censure and defeat it by your solid phalanx, I will tell you the result, you will pass a death vote on this Chamber. Sheer self-respect demands that this Assembly shall rise in angry protest against Legislative functions being exercised by any other body than this House. If this Resolution is a vote of censure on the Government it is something more on the dignity and on the self-respect of this House. What are we here for? Why are we called from all corners of the country to make laws and to criticise the administrative acts of the executive and to vote money Bills? So far as money Bills are concerned, we have had experience of two sessions. But so far as legislation is concerned, it is time to consider whether we are really functioning. If the Governor General alone by himself can make all kinds of laws for all time and for all occasions, then it is just as well to disband this House and tell us so. (*Opposition cries of* "Hear, hear.") There will be some point in your rule by Ordinances if you are to disband this House; then you might also disband all these Round Table Conference Committees and send them back. You might proclaim from the housetops that you mean no nonsense about these reforms and Dominion Status and all the rest of it. I say in that case you will be perfectly entitled to rule with the help of Ordinances and with certification and with the suppression of ordinary fundamental guarantees. But one cannot understand that you on the one hand are propounding these theories of constitutional government and Dominion Status and committees and so on, and on the other hand using force to repress all opinion. One would like to understand what it is that is at the back of the minds of those who are promulgating these Ordinances and are engaged in this kind of talk. It is a puzzle to many people on this side and on that. The puzzle is the change, the unfortunate change in the attitude of the powers that be. It came very handy this morning from the late Secretary of State, Mr. Wedgewood Benn, in the papers, when he wrote to the present Secretary of State, taking objection to the remark that the policy of the present Government was the same as that of the late Government. No one could speak better on this subject. One Secretary of State telling

[Mr. Jagan Nath Aggarwal.]

another Secretary of State that the outward form, the shell, is there, but the kernel has disappeared, the spirit has changed. I would in my own humble way point out other things which show that all this talk about reforms, about Dominion Status and improvement of the constitution, and all that is all bunkum. Either you do not believe or you do not mean anything by it. If you do, then all these measures and all these acts that you are engaged in are mere deception; there is no point in them.

Last year we used to hear from Members opposite, when dealing with any measure in this House, talk of real co-operation. What is the language used now from the most authoritative quarter? "The caravan passes by, while the dogs are barking." What does this mean? No country likes to hear of its people who are out against any measure of the Government that they are like dogs. No nation with any self-respect can take these words with any measure of satisfaction or anything short of alarm. The whole point underlying it is that although the words remain, the essence has disappeared.. No one is serious about reforms, and if that is so, then I say what is the use of all this talk about Dominion Status and reforms?

My learned friend, the Deputy President, when speaking about the Resolution and the alleged moderation with which these Ordinances have been worked, mentioned a certain article written by an Honourable Member of this House whom he called timid and mild. Some people on the other side seemed to take exception to the description of my Honourable friend on this side as timid and mild. I have read the article and I have been hard put to it to find something in it which could not be called timid and mild, and since the curiosity of this House has been excited I shall just give them an idea of it, lest the Home Member might complain that the House was not treated to the speech for which my friend may very likely be placed in the dock. The article is headed "Wrong Move". The first sentence is:

"We must warn the Government of India on their Himalayan blunder. Their action has not met any sanction except those of the Calcutta European Association", (*whom I will leave alone.*)

Then it goes on:

"It is false logic to put congressmen and terrorists together. It is folly to dream in Churchillian doctrines and believe that nations can be ruled by brute force and can still be exploited. There are other methods. There is the silk cord of friendship that will tie nations together."

That is palpably timid and mild in these days:

"That was what Mahatma Gandhi offered at the second Round Table Conference. Unfortunately the unparalleled victory of the Conservatives at the last election and consequent blood lust of imperialists like Rothermeres and Churchills helped Villiers to enunciate principles of governance that found reflection in the action of the bureaucratic Government of India."

Nothing very objectionable there. Then it goes on:

"The Government of India miscalculated. They based their manœuvre on two flank supports. They expected that the dying liberals will sing with joy halleluiah over the arrest of Gandhiji. They expected that the Moslem leaders will remain still blind over the smoke screen and condemn from housetops congress perfidy. . . . . Both the Viceroy and the Mahatmaji were kept in darkness of the real situation. Mahatmaji had little knowledge of no-tax campaign of his exuberant lieutenants of U. P. or the movements of Abdul Ghaffar Khan."

I do not know whether he will get credit for that.

Then it goes on:

"Mahatma Gandhi was given no opportunity to know that Government gave reduction of six crores of land tax in U. P. nor did the Viceroy and the world know that Mahatmaji was for peace at any cost.

The Government of India ask for support of the saner public. No political school of thought can dream of settlement of India's constitution without the great Congress party. No Liberal, not even a Sapru can muster courage to deliver the goods. Nationalist India is undergoing pangs of sorrow, humiliation and depression. We never believe that Mahatma Gandhi was against settlement. The only thing that the Government of India can do is to accept Sir Tej Bahadur's advice, call an all-parties' conference. . . . . Let Government atone for their mistakes and release him and start reconstruction of the work where it was left at the Second Round Table Conference. . . . . ."

Well, Sir, this is the kind of article for the publication of which a notice was served on him. That is the kind of material on which it is said that the Ordinance is being worked with due care and moderation.

There is just one point more, Sir, on which I should like to say a few words. The Honourable the Leader of the House in regard to the second part of the Resolution said that it would be quite open to any one to bring to the notice of the Local Governments all cases of abuse of powers through the usual channels, but, Sir, the usual channels are practically blocked. There is strict censorship; nobody can get into the disturbed area, and ordinarily newspapers are not allowed to ventilate the grievances of the people.

And, Sir, there is another outstanding fact. In one breath we are told that the Frontier Province has blossoming up into a Governor's province with all the rest of its paraphernalia, while on the other hand we have severe repression and strict censorship and so on. Now, what does it mean? By suppressing the liberty of the people, are you going, by a magic wand, to create a Governor's province and give the people of the province liberal institutions? Where are the people to come from? Are they to drop from Heaven? When everybody in that province is put to so much humiliation and pain, how are you going to lead the people of that province to that consummation which everybody is supposed to look forward to and which requires the creation of a peaceful atmosphere in which alone representative institutions can grow? You are not by your Ordinances and repressive measures creating any such atmosphere in the Frontier Province. You are only driving discontent underground by using the powers that you are using in the province. Therefore, Sir, the third recommendation that has been proposed is because the House was not forgetful of the fact that Government had attempted the work of conciliation. Last year a very fine appeal was made by the Prime Minister for co-operation. The point why this was mentioned in the Resolution was because the Government of India had practically forgotten it, and they were not trying to secure the co-operation of this House or of the people, and therefore, it was intended to be a timely warning. Therefore, Sir, I submit that if you treat this Resolution as a vote of no confidence, I cannot help it, but if you reject it, you sound the death knell of the Assembly and its powers.

Lieut.-Colonel Sir Henry Gidney (Nominated Non-official): Sir, when I listened to the speech delivered by the Mover of this Resolution my friend, Sir Hari Singh Gour, my mind went back to a famous speech delivered by Mr. Winston Churchill in the House of Commons in which

[Lieut.-Colonel Sir Henry Gidney.]

he called the Prime Minister a "boneless wonder". My friend, Sir Hari Singh Gour, is like myself one of the Nestors of this House, and so I know of his peregrinations in this House for the past 12 years. I have often heard him make speeches in favour of Government just as reproachful as that he delivered yesterday against the Government. I also remember the many occasions on which he has crossed the floor of this House from seat to seat, from Party to Party, to suit his own ends and I feel he has well earned the sobriquet "The soulless Chameleon of the Assembly". Such an omnibus Resolution emanating from my friend, Sir Hari Singh Gour, supported as he is by his *chela*, Mr. Ranga Iyer, whom one might rightly call the Amplifier or the distempered Loud Speaker of the Nationalist Gramophone, and to whom I feel inclined to say,—"with all your barks I love you still",—cannot find much support from this side of the House. Let us examine this Resolution for a moment. The Honourable the Home Member has called it an intricate mosaic containing incompatible propositions; somebody else has likened it to riding on two horses. In my opinion one part of this Resolution is antithetical to and directly contradicts the other. The first part of the Resolution protests against the way in which the Ordinances have been operated and which have resulted in the imprisonment and treatment of certain people who offended against these Ordinances. The second part of the Resolution with which I am in entire agreement states that the Mover and his part of the House condemn terrorism, violence, the no-rent campaign and similar activities and the third part of it recommends a suspension of the Ordinances, an appeal to the Government to secure the co-operation of all sections of Indian political thought and opinion, and the formation of a non-official committee to tour the North West Frontier and inquire into its disturbances. Now, Sir, no one will dispute the fact that if any one violates the law, whether it be Mahatma Gandhi or the Mover of the Resolution or anyone else, he must be punished. I ask this House: Have these laws been violated or not and is the law a respecter of persons? If they have been violated, what need is there for my friend Sir Hari Singh Gour to oppose the action of the Government? If these people have violated the laws, they deserve to be punished. If they have transgressed the law, and they certainly have done so, then how does my friend Sir Hari Singh Gour reconcile the first part of the Resolution in which he asks Government to exercise the law with moderation and to respect the status and position of those who offend against the law with the second part in which he completely dissociates himself from such offenders? What would my friend Sir Hari Singh Gour and his *chela*, Mr. Ranga Iyer, do if they were in the position of the Viceroy and the Home Member and were confronted with a situation similar to the one with which the Government are faced today? Would they after having failed in every other endeavour apply such ordinances or would they do what his Resolution asks the Government to do, *i.e.*, suspend all Ordinances and submit to Congress rule? This Resolution reminds me of the case in which a burglar has entered a man's house. The man who has been robbed condemns the burglar, and when the police enter the house to catch the burglar, he turns round and condemns the policemen. That is what this Resolution amounts to because although it dissociates itself from such offences and offenders, it desires to censure Government for punishing such offenders. Surely, if a National Government were in power

today it would act in the same way as the Government of India has acted and is acting and which action, in my opinion, was forced on the Government after they had tried all other measures of conciliation and forbearance. Sir, no matter who is ruling the country, whether it is the white bureaucratic Government of India of today or the brown Nationalist Government of tomorrow, they must either govern or get out, there can be no half measures. If the Mover and his Party object to Government operating these Ordinances and which they have been forced to adopt, why don't they make their objections heard outside this House in the same language as they have used in the House today? They won't because they are afraid to object outside lest they be jailed and that is why they show their Dutch courage in this House under the privileges of free speech and protection of this House and blame Government levelling all sorts of random charges and curses against them.

Mr. Lalchand Navalrai: But we don't curse you.

Lieut.-Colonel Sir Henry Gidney: I am not saying that you curse me, indeed I don't mind being cursed because curses "like crows go home to roost".

Sir, if there is one part of this Resolution, which has more than surprised me it is the sudden interest the National Party has evinced in matters of the North West Frontier. I have memories of the time when that side of the House bargained and with considerable reluctance supported Resolutions asking for reforms for the North West Frontier Province. We now find that a sudden interest has been aroused in the Frontier Province, so much so that the Mover asked my friend Mr. Shafi Daoodi to explain what he had personally seen in the Frontier. In this game of political bluff, surely, the Congress is not so blind, and the Moslem group, especially in the Frontier Province, is not so blind as to realise that each side is making a cat's paw of the other in the persons of Mr. Gandhi and Abdul Ghaffar Khan. Abdul Ghaffar Khan and his lot know that they will never get what they want unless they have Mahatma Gandhi behind them, and Mahatma Gandhi and Congress know that they cannot get anything unless they have the North West Frontier men behind them, and so the cat and mouse game goes on and the moment each has got what he wants, he will drop the other. And so my Honourable friend Maulvi Muhammad Shafee Daoodi was asked to supplement what Sir Hari Singh Gour was unable himself to say about the North West Frontier. Well, Sir, Maulvi Muhammad Shafee Daoodi has spoken and gone and let us examine what he did say. He said that the North West Frontier people were afraid to come near him, they were whispering to each other, they were afraid to speak out, and he heard that many of them had received bruises and put in water. But he never told us that he himself actually saw any of these bruises. We have heard all sorts of such things in this House, but we have not seen them and we generally accept such statements *cum grano salis*. I ask, did Maulvi Muhammad Shafee Daoodi see these bruises, and if he did, why did he not say so in this House? (*An Honourable Member*: "He was not allowed to see.") That is absolute skittles. Does the Member who interrupted me seriously expect this House to accept what he says? I refuse to. I go further and ask, did Maulvi Muhammad Shafee Daoodi make mention of having seen these bruises in his report to the Central Muslim League or Association? He did not.

Mr. M. Maswood Ahmad: How do you know that Maulvi Muhammad Shafee Daoodi did not mention it in his report?

(There were other interruptions also.)

Lieut.-Colonel Sir Henry Gidney: I know he did not and he cannot deny it. I submit, therefore, that this charge against Government by Sir Hari Singh Gour goes by default for want of evidence or support. Sir, I have the greatest respect for Maulvi Muhammad Shafee Daoodi, and I do not want to be misunderstood. (*Cries of* "Oh" from the Nationalist Benches.) But when he got up I did expect something more from him than a mere recital of his personal impressions; there was not one piece of evidence whatever to support the Mover. He did say that these people were given cold baths. Surely, Sir, we are all used to that. The water hose is used in the United States and other countries to quell riots and disturbances. Indeed in some countries tear gas and laughing gas are used. But surely, the Muslim Party here can speak for themselves as to what their position is in the North West Frontier without Sir Hari Singh Gour and his Party now posing as their benefactors and wanting to pass a Resolution to support them. There is another point to which I desire to refer, one which led to a wordy duel between Mr. Ranga Iyer and myself yesterday—when he claimed that Mahatma Gandhi represented the whole of India at the Round Table Conference. That bubble must be pricked and burst here and now and once and for all and I want this House to prick it. I ask: Does Mahatma Gandhi represent the Muslim community? Let the Muslims answer. Does he represent Feudatory India? Does he represent the depressed classes? Let Mr. Rajah answer. (*Cries of* "Yes" from the Opposition Benches.) I am not asking you. You are not a depressed class, your complaint is that you are a suppressed class. (Laughter.) Does he represent the Indian Christians? Let the representatives of the Christians answer that. Does he represent the Sikhs? (*Sardar Sant Singh*: "Certainly he does.") Sir, you do not represent the Sikhs, moreover, you would be a loser if he were to represent the Sikhs. Does he represent the European community? I ask the European Members to reply. And as for the Anglo-Indian community I maintain he does not represent it. Together these communities form more than $\frac{2}{3}$rds of India and they certainly do not admit the Congress creed or Mahatma Gandhi as their leader. So let us hear no more of this nonsense.

Mr. K. C. Neogy: Does the Honourable Member himself represent his own community?

Lieut.-Colonel Sir Henry Gidney: I certainly do and the community is fortunate that the interrupting Member is not a member of it. Sir, I do not favour any Ordinance and I agree with those who say that ordinances should not replace the laws of the land. But there are certain occasions in the history of every nation when extreme measures demand extreme action, and I believe that Government have shown every forbearance, every toleration, and explored every means of conciliation in their power before it was driven to pass these Ordinances. And I would add; in the present state of affairs in India, if it were not for these Ordinances I can assure Honourable Members in the Opposition Benches that they would not be sitting there in their seats, unless of course they are a Congress Party and not a Nationalist Party. I ask you: Are you a Congress or a Nationalist Party?

Mr. President: Order, order. The Honourable Member must address the Chair.

Lieut.-Colonel Sir Henry Gidney: I ask you, Sir, and through you I ask them are they a Congress or a Nationalist Party? If a Congress Party, let them boldly say so. Let us be under no delusion about it. Judging from their speeches in my opinion a very thin line demarks them from the Congress Party and its creed.

Now, what are the objects of this Resolution? To my mind it has a three-fold object. One is to send a word of good cheer to their Congress brothers now in jail. I join in that, because I am sorry for anybody in jail but I do not subscribe to their creed and policy. Another object is to thwart the reforms that are about to be introduced in the North West Frontier Province. This is a cunning, subtle move on the part of the Opposition. They know well that the reforms are about to be introduced, and this is a cunning plan of theirs to thwart them and lend support to the Red-shirt movement. The third object of this Resolution is still more cunning, it is an attempt to pass a vote of censure on the Government and so embarrass it. Sir, the one practical accomplishment of the second Round Table Conference was the formation of the minority pact and the joint memorandum it submitted on the communal problem and I am happy to add that I was the father of that pact for I presented it on the 19th January 1931 to the first Round Table Conference.

(At this stage some Hindu Honourable Members on the Opposition Benches attempted to interrupt the speaker.)

You who are interrupting me were not in that pact and you have no business to talk about it. I was in that pact and I am jolly glad I was. That pact consisted of the Muslims, the depressed classes, the Indian Christians, the Europeans and the Anglo-Indian community. . . . .

Mr. K. C. Neogy: And Sir Samuel Hoare.

Lieut.-Colonel Sir Henry Gidney: Sir Samuel Hoare was not asked to join any more than you.

Mr. K. C. Neogy: He promoted it from behind the scene.

Lieut.-Colonel Sir Henry Gidney: That is a falsehood. He certainly did nothing of the kind. Let me remind the Members of that pact. We entered into an honourable pact in London, that pact still remains and we must now in this country implement that pact and see that nothing destroys or undermines it. I therefore appeal to every Member belonging to those contracting communities to cement that pact and to solidly vote against this Resolution, for any vote given in favour of this Resolution will undermine and destroy that Minorities' pact and Memorandum. Believe me the Minorities will get nothing from that party (the Nationalist Party) or the Congress, for they are one and the same thing. I repeat you will get nothing.

Mr. N. M. Joshi: I was not in that pact.

Lieut.-Colonel Sir Henry Gidney: You did not come into it because you never asked and we did not therefore want you. Before I conclude I again appeal to every Member in this House belonging to those communities who signed that pact to give his vote against this Resolution and vote in support of the Government. (Applause.)

Nawab Sir Sahibzada Abdul Qaiyum (Nominated Non-Official): As my province figures so largely and so prominently in the debate and as I happen to be the only Member in this House from that province, I feel bound to say something on the subject, especially on that part of the Resolution which concerns my own province. But before doing so, I should like to clear my position. It is very often said in this House that a nominated Member has for his constituency the Government of India and that he has therefore to support the Government —or what some people call the voice of his master!! But I am not sure that that is not the case with every Member in this House, especially those who represent special constituencies—take for instance the millowners' constituency. Are these Members not careful to safeguard the interest of their constituencies? Is not every Honourable Member sent here to represent the interests of the constituency bound to safeguard those interests especially when those interests directly affect the safety of the lives and property of the people of India as a whole. The question is whether the constituency which I represent, namely, the Government of India, consists of men of inferior intellect, less honesty, less experience, and less practical men than the constituencies of others? I thought that some of the men in the Government, coming as they do from our own country, such as, Sir Joseph Bhore, the Nawab of Chattari, and Sir B. L. Mitter, were as honest as members of any other constituency in the whole of India. But there is still another constituency behind every Honourable Member in this House, whether nominated or elected, and that is the constituency of his own conscience!! And in that respect I do not feel to be less honest to my constituency than any other Member of this House. I may not be an extremist on one side or an extremist on the other side, and may not be able to make my speeches more interesting or more palatable to the House, at least for lack of command of the English language if for nothing else, but brief though my remarks on this occasion will be, I make bold to say that they will be honest and will be based on nothing but the full truth. I may not get time to develop my remarks or give all the details, but within the limited time at my disposal I shall try to be to the point and I hope that the House will give me a patient hearing and show me the same indulgence on this occasion as they have invariably done before.

1 P.M.

The Resolution seeks to make three recommendations to the Governor General in Council. The first is the withdrawal of the Ordinances and their replacement by proper Bills and enactments. The second is the appointment of a committee of inquiry to go into happenings in the North West Frontier Province and the third is to ask the Governor General in Council to secure the co-operation of the Congress and other parties. As for the first, I am not a constitutional lawyer to say whether the Ordinances are legal or illegal, whether they violate the fundamental rights of the people or not, and whether they clash with the Great Queen's Proclamation or the Magna Charta of India. That is for Sir Hari Singh Gour and people of that sort to settle. I am also not one of the advisers of the Governor General to say whether the promulgation of the Ordinances in their present form was wise and politic, whether they are worthy to be shown to the world that the state of affairs in India had reached such a stage as to necessitate the promulgation of such drastic measures. It was for the Viceroy's advisers to decide whether the Ordinances were dignified enough to be put on the Statue-book and broadcasted to the world.

The one point with which I am more or less concerned is the justification or otherwise for the promulgation of these Ordinances. Even there I will not worry myself much with Bengal where anarchism has been going on for some time and requires special attention. I would not also concern myself with the United Provinces where the no-rent campaign is going on and may have necessitated the promulgation of the Ordinances, I will only confine myself to my own province, where the activities of Abdul Ghaffar Khan have been I believe the chief cause of the promulgation of these Ordinances. Here I shall be failing in my duty if I do not say plainly and boldly and openly that his activities had exceeded the bounds of the ordinary law. My chief reason for that is that his own supporters, men of substance and men of intellect and men with a greater stake in the country, had deserted him towards the end of the dangerous propaganda which he was carrying on in the country. Ever since his release from jail, he was going from village to village preaching to the people the doctrine of complete independence. I think he had either misunderstood the meaning of the term "Swaraj" as used by the Congress or was misinterpreting it to the ignorant public of the North West Frontier Province. Perhaps he thought that the Congress was really out for independence, a real and complete independence. At least his idea of "complete independence" appeared to be different from the ideas of the leading men of the Congress itself. The Mahatma himself had, in some of the Resolutions passed by the Congress, come down from that stage of complete independence to Dominion Status or some sort of responsible Government within the British Commonwealth, and had also, according to the Irwin-Gandhi pact, agreed to certain safeguards, or rather to a good many safeguards and conditions, as we had not yet reached that stage of nationalism when such safeguards would not be required. I am perfectly certain that Abdul Khaffar Khan's reading of the situation was mistaken. But one could forgive him for all that he was doing in the country before the 1st December last when the Prime Minister's announcement was made, but after the 3rd of December, when that announcement was published in the papers out here, he was not justified in precipitating matters by going about the country and declaring that nothing short of "complete independence",—and here I must remind the House once more that he meant perhaps complete independence in his own sense and according to his own light,—would satisfy the North West Frontier Province. This was not all. He held a meeting of his jirga on the 20th December, and there passed a Resolution that the reforms granted to the North West Frontier Province were unacceptable to the "jirga". Well, a point arises here, about which I am not sure myself, and it is whether he was doing this with the permission and consent of the Congress's sole representative at the Round Table Conference or whether he was going against the wishes and permission of that leader, but the fact is there that he was going on with his dangerous propaganda in the country, but what puzzles me more is that as far as I can make out from the papers, Pandit Jawahar Lal was also going on in that direction. I do not believe that Mahatma Gandhi could be a party to that campaign when he himself was co-operating at the Round Table Conference. But the Mahatma himself was not quite definite about his future attitude in the matter after the announcement. If he had definitely declared himself for or against the movement, perhaps we would have been clearer on the point about the activities of his lieutenants on the spot. But whatever it was, Abdul Ghaffar Khan should have waited until the Mahatma's return to India or

[Sir Abdul Qaiyum.]

for a definite announcement from Mahatma. As far the Premier's announcement goes, all that was announced was that the Conference was to continue. Nothing else could be done by the Prime Minister under the circumstances except that, as we could not come to terms on the communal questions and could not agree on the minority questions ourselves, and when certain Indian States were still doubtful about the practicability of an All-India Federation, and provincial autonomy divested of responsibility at the centre was not acceptable to the majority of the Delegates and when we could not unanimously and unconditionally authorise the Prime Minister to arbitrate in the matter. Well, if the British Government were not really honest, they would have availed themselves of the opportunity and simply declared, once for all, that as we had failed to come to any agreement among ourselves all this time there would be no advance until we had come to terms and that that was their final decision, and they would have had to run the same risk as they are running now.

Mr. President: The Honourable Member's time is up.

Nawab Sir Sahibzada Abdul Qaiyum: Well, I am afraid I must stop now. But before I sit down I must say that as things had gone so far I think that some extraordinary action in my province was justified to be taken. Whether indiscriminate action has been taken or excesses have been committed, I have no time to go into that. These things do happen occasionally but I hope they will be remedied and will not be allowed to occur again.

Mr. President: The Honourable Member will resume his seat now.

Mr. K. C. Neogy: Sir, I wanted to get up a little earlier but I found my Honourable friend, the Legislative Secretary, was busy instructing a non-official Member of this House, and he actually had to take him out, and as I was going to refer to my Honourable friend in my speech I had to resist the temptation to speak on that occasion. Now that he is back in the House after, I hope, having satisfactorily completed his task, I think I may speak now. I must, first of all, Sir, confess that I have never been able to keep a count of the innumerable Ordinances that have been promulgated with the rapidity of an automatic machine; and I make another confession, that I do not yet know much about the provisions of these Ordinances. But from all that I see around me, I draw the very comforting conclusion that there is one right yet left to us Indians which has not yet been declared unlawful and that is the right to breathe. It may be that my Honourable friend, Sir Lancelot Graham, with his characteristic foresight and resourcefulness, may be drafting yet another Ordinance seeking to restrict the supply of oxygen in the air, for the special benefit of the nominees of the European Group. The European Association, being considered the lineal descendant of the East Indian Company, is at present moment, I find, seeking to claim to share the sovereignty of this land with His Majesty the King-Emperor. My Honourable friends opposite would say that all this has been brought about by the inexorable logic of events. They say, "Look at the way the Congress broke the Pact". Well, Sir, I am not concerned with the question as to who actually broke the Pact; but I have heard Congress people, on the other hand, making certain allegations. In the first place, they allege that ever since the Pact was made, the diehards in India have been spoiling for a fight. They got their opportunity when they found a diehard Government installed in

England which is masquerading under the name of a National Government. They further point to the fact that the surrender of the India Office to the Tories was made a condition of the formation of this National Government; and they also allege that the diehards are really the liege lords of the India Office at the present moment. Furthermore, they say that there is a secret league and covenant between the India Office and Mr. Winston Churchill and all whom he represents. Moreover they point in support of this latter theory of theirs to a remarkable statement which Mr. Winston Churchill made in the course of the debate in the House of Commons on the Indian Round Table Conference. Speaking on the 3rd of December, this is what Mr. Winston Churchill said:

"What are we to do? We are to send out committees to India."

The committees have actually arrived:

"They are to roam around India, large parts of which may be under something like martial law. They will roam around India in places where the ordinary constitutional rights are superseded by measures of enforced protection."

Later he proceeds:

"That is to go on for another two or three years *pari passu* with the repressive measures—stern repressive measures which I believe have largely arisen out of our foolish policy of fermenting this feeling of unsettlement."

The Congress people have asked me as to whether I could throw any light on the point as to how it was possible for Mr. Winston Churchill, speaking in the House of Commons on the 3rd of December, to make this remarkable prophesy of what was to come about in the New Year. Sir, I have not found it possible to give any reasonable answer to them. As my Honourable friends occupying the Treasury Benches are in secret spiritual communion with Mr. Winston Churchill, will they enable me to give an answer to the Congress people who have put me this question?

Sir, in the biref space of time at my disposal it is very difficult to deal with all the points that I should have liked to deal with, but I would just take up a few of the points made by some Honourable friends who have gone before me. My Honourable friend, Mr. Arthur Moore, has asked for instances. He said, "Give us specific instances". If my Honourable friend were really acting up to the traditions of honest journalism, it would not have been necessary for him to ask me for instances (Hear, hear). It was amply proved this morning that, apart from the strict censorship which the officials have been exercising on the telegrams and other news that appear in newspapers, the *Statesman* on its own account has its own special censorship. That point was made abundantly clear by one of those helpful interruptions which my Honourable friend, Mr. Arthur Moore, made this very morning.

Mr. Arthur Moore: What does my Honourable friend refer to?

Mr. K. C. Neogy: I refer to the fact that when my Honourable friend, the Deputy President, was referring to a European I. C. S. officer having done something, he at once pointed out that there was nothing to show that that officer was a European, which shows that the *Statesman* in its own version of the story had omitted that particular fact.

Mr. Arthur Moore: May I say, Sir, that, as it happens, I read this account in the other daily paper this morning, and I merely meant that in the account that I read I was not aware that it said that it was a European Magistrate. I was not aware who the Magistrate was.

Mr. K. C. Neogy: There may be other papers of the same type as my Honourable friend's.

Mr. Arthur Moore: I referred to the *Hindustan Times*.

Mr. K. C. Neogy: The *Hindustan Times* does publish the name. As a matter of fact, my source of information, as also Mr. Chetty's, is the *Hindustan Times* itself.

Now, Sir, when the news about the situation in the country gets through a process of double distillation like this, how is it possible for the country and this House to know exactly what is going on? Sir Samuel Hoare with a great fanfaronade in a broadcast speech stated that there is no censorship on foreign correspondents. Are we in a position in this House to know what exactly is the situation in the country? Does my Honourable friend Mr. Arthur Moore pretend that he is publishing all that he is getting or that the newspaper correspondents are being permitted, to send out true and accurate information of things that are happening? Sir, is it possible for us to know what is happening on the Frontier? Is it possible for us to know what is happening in Chittagong. Admittedly, there is a most strict censorship in Chittagong and naturally my friend Mr. Mitra, while speaking this morning with great feeling, had to refer to what incidents were reported to him and which could not possibly be published by any newspaper under the system of censorship that obtains there.

Now, Sir, if my Honourable friend will yet like to have some more instances, I will give him a few. Not very long ago there was an Honourable Member who used to sit on the non-official Benches with great distinction, a gentleman of the name of Mr. G. C. Nag, a retired Government official who had been made a Rai Bahadur for the services that he had rendered as a Deputy Collector and in other responsible positions. He is an inhabitant of my native town of Dacca. His daughter is one of the most cultured ladies that my part of the country has produced. She has been taking immense interest in the welfare of women. She has been organising and conducting institutions for the educational and other benefits of women. Now, naturally, she is a suspect because the authorities of the present day cannot appreciate this kind of public-spirited, philanthropic work to be carried on by non-officials. They want us to lead self-centred lives. So everybody who goes out of his or her way to do a little good to his or her fellowmen is, under the present regime, looked upon with suspicion, and it is no wonder that she is at the present moment interned.

Mr. W. A. Cosgrave (Assam: Nominated Official): Rubbish!

Mr. K. C. Neogy: You know nothing about what is happening in Bengal.

Mr. B. Das (Orissa Division: Non-Muhammadan): On a point of order, Sir. Is the word "rubbish" a parliamentary expression to be used on the floor of the House?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Our Standing Orders are even more strict than Parliamentary practice. No offensive expression is permitted in the House, and if the word "rubbish" is believed to be offensive to anyone, it must be withdrawn.

Mr. K. C. Neogy: I do not complain.

Mr. Gaya Prasad Singh: Better return the compliment to him.

Mr. K. C. Neogy: I have very often used such expressions myself.

Mr. President: When there is so much excitement in the debate the Chair would like every Honourable Member to refresh his memory by looking up the Standing Order dealing with limitations on debate.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): On a point of order. In view of your previous ruling when my Honourable friend, the Leader, Sir Hari Singh Gour, said "taking mean advantage" you called upon him to withdraw that expression, I would respectfully submit to you that the Honourable gentleman on the other side who used the word "rubbish" be asked to withdraw that expression.

Mr. President: I have already said that the word was addressed to Mr. Neogy . . . . .

Mr. C. S. Ranga Iyer: No, Sir, it was addressed to this side of the House.

Mr. President: I should like to ask the Honourable Member (Mr. C. S. Ranga Iyer) on what basis he has come to the conclusion that the word was addressed to the Opposition?

Sir Hari Singh Gour: It was an exclamation. Consequently, in exclamation was addressed to every one.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair cannot accept that view. The word "rubbish" was used with regard to the statement made by the Honourable Member (Mr. K. C. Neogy) while he was addressing the House. The remark conveyed the sense that the statements made were "rubbish", not worth listening to, and the Chair would have called upon the Honourable Member (Mr. Cosgrave) to withdraw it provided the speaker (Mr. Neogy) took exception to it. Does Mr. Neogy take exception to it?

Mr. K. C. Neogy: I do not. I have myself used expressions like this in the heat of the debate and I was not at all anxious to lose my time in the excitement that that interjection has caused.

Now, Sir, to return to my story, namely, the incidents which Mr. Arthur Moore wants to have. This lady is under detention and no charge has ever been framed against her under any of the provisions of the numerous ordinances. Now, Sir, there was a raid in the house of her father where she was living. The raids usually take place either at midnight or early in the morning. That is the usual practice nowadays. The armed policemen were led by a European police officer.

Mr. C. S. Ranga Iyer: On a point of order, Sir. I do submit to your ruling that when my friend Sir Hari Singh Gour used the expression already pointed out by me, he was asked to withdraw it . . . . . .

Mr. President: I cannot allow any further points of order. That point of order has been settled and the Honourable Member is now addressing the House.

Mr. K. C. Neogy: Now, Sir, when the raiding party secured admission to the house, the old Mr. Nag, the retired Deputy Collector, the Rai Bahadur, the *ex*-M. L. A., was roused from his sleep and as soon as he appeared before the police party he was grossly abused by the European police officer. He protested saying that he was not used to that kind of treatment, having himself been a Magistrate at one time. The European police officer said that if the Superintendent of Police himself had come he would have beaten him. Now, all this appears over a signed letter by Mr. Nag himself which has appeared in the press. Then Mr. Nag proceeded to relate his experiences. The police made a pretence of searching the House and destroyed the furniture. They said that they wanted to look into the book cases. Mr. Nag offered to open them with his keys, but the panes of the book cases were smashed. No search of any serious kind was conducted by the police party beyond removing an unopened box and then they left the father, taking, I believe, his daughter and a son. Now, Sir, this gentleman, apart from writing in the press over his own signature, has addressed a personal letter to me expressing his deep sense of humiliation at the treatment which his daughter is having at the hands of the executive authorities. She is being transferred from one jail to another with only male escorts; that is to say, two constables and one Sub-Inspector. She is not allowed the companionship of even an ayah on such journeys. Sir, my time is up and therefore I cannot say anything more.

The Assembly then adjourned for Lunch till Twenty Minutes to Three of the Clock.

The Assembly re-assembled after Lunch at Twenty Minutes to Three of the Clock, Mr. President in the Chair.

Kunwar Raghubir Singh (Agra Division: Non-Muhammadan Rural): First of all I wish to congratulate the Honourable the Mover of the Resolution on the ingenuity with which he has framed this Resolution. Several criticisms have been made on the Resolution, but all Honourable Members differ in their opinions. Some of the Members were saying that the Resolution does not go far enough. Others say that it goes very far. Opinion in the House, as everybody knows, is very much divided and I am sure that the political India, India which is interested in politics, stands solidly for the Resolution. But the masses in general and those who have followed the Government papers carefully differ. The Resolution says in the beginning "This Assembly has reason to protest against the manner in which the Ordinances promulgated by the Government of India have been worked". We have to see the condition of the country just at present. The Congress happily decided to co-operate with Government in the work of making a constitution for this country which may be acceptable to most of the political parties here. But when that work was going on, a no-rent campaign was started in the United Provinces. Government afforded every opportunity to the Congress leaders in my province to confer with the officials, and they did confer. The non-officials knew that the tenants were not able to pay and this very disability could be worked for the propaganda of the Congress. They decided that they should no more confer with the Government officials but they should start a no-rent campaign. It is a pity that the Congressmen did not wait for the return of Mahatma Gandhi to this country. As far as I am aware, even Mr. Vallabhbhai Patel was not given a full opportunity to discuss the situation in the United Provinces. An old Congressman of my

province, Babu Bhagwan Das of Benares, was against the starting of this no-rent campaign. But younger counsels prevailed in the Congress. Several zemindars were murdered in my province. Of course, I admit that the condition of the whole of the province is not so bad as in some of the southern districts of the province. There is some truth in the criticism made by non-official Members that the Ordinances ought not to have been promulgated for the whole of the province. The condition in the northern districts is much easier than the southern. As I have just shown, the Congress made haste in starting this campaign. So I believe the Government also made haste in issuing these Ordinances. If we peruse the newspapers of America, we find that there is a mania for speed these days. In the same way the terrorists created havoc in this country. They did not wait for the results of the Round Table Conference. They went on murdering official after official. They did not leave even the non-officials, I mean the zemindars and those who were siding with Government. Everything was done in great haste on both sides. Although we may approve of some of the portions of the Resolution, the Resolution as it stands, I am sorry to say my party is not in a position to support. Then the first request made in the Resolution is that Bills based on the Ordinances should be put before the House. If Government accept this proposition, by the time these Bills are brought before the House, I doubt very much whether they will be passed at all. It will take a very long time, and by then, God willing, the situation might become clear, as it is apparent from the speech of Sir Samuel Hoare that the situation is improving. There is no doubt that if haste had not been made by the parties, everything would have been all right. Every politician shudders to think what will be the result of all these. If repression goes on, how long it will go on nobody knows and nobody can say, but there can be no other thing except conciliation in the end. But Government say that there can be no conciliation so long as the Congress issues threats, and that is why His Excellency could not see Mahatma Gandhi.

As for the North West Frontier Province, except Sir Abdul Qaiyum, who has already spoken of what he believed of the present measures, there is no other Member from that side who can speak authoritatively on this question.

As for the third recommendation Government made it quite plain that they stood for co-operation. They extended the hand of fellowship from the time that Lord Irwin was here. It was grasped but the counsels in the Congress being divided it could not be worked to the satisfaction of the country. So in view of the special circumstances of the day, I think it was incumbent to make such laws to deal with the situation as it is today. As for the manner in which the Ordinances have been worked, I think there can be no other way than to crush those who want to defy law and order. We are here to make laws, and if somebody breaks the law, then we cannot be in favour of that organisation. With this idea my party came to the conclusion that we should support Government at this juncture.

Sir Zulfiqar Ali Khan (Nominated Non-Official): Sir, I am afraid I am addressing a rather attenuated House and a House which appears bored this evening, but as I had to work in some other place I am sorry I could not make this speech yesterday. As I sat listening to some of the speeches, I strongly felt that on such grave occasions and in times of crisis such as these we must not allow emotion to have the better of reason. And therefore I should like my Honourable friends on both sides

[Sir Zulfiqar Ali Khan.]

to deal with this problem with *sang-froid* and I have no doubt that the representatives of the people, my Honourable friends, would not deny me a patient hearing and even a certain amount of indulgence. I know that some of the observations which I will make may not be tasteful or palatable to either this side or the other side, but I want to deal with the problem in the most impartial and unbiassed manner. The Resolution as it is framed is to my mind a strange jumble of incongruous ideas. On the one hand it condemns Government very vehemently for the policy of Ordinances, repression and so forth and on the other it prays Government to expedite the inauguration of the reforms. Well, I think we are as much interested in the inauguration of the reforms as the officials themselves are, because they are showing earnestness about it, but the question is whether we are affording Government that opportunity which is most favourable for the consideration in a cool manner of all the problems which now confront the Indian nation. Before Mahatma Gandhi returned to India the situation had developed in a manner which caused grave anxiety not only to the Government who are the custodians of law and order in the country, but to those people also who have some stake in the country. I do not think that anyone either in this Chamber or outside it, either capitalists or landholders who have a stake in the country can allow . . . . .

Mr. N. M. Joshi (Nominated Non-Official): May I ask who has not got a stake in the country? Everybody has a stake in the country.

Sir Zulfiqar Ali Khan: So much the better; that strengthens my argument. All those who have a stake in the country or who have any interest in the preservation of peace cannot allow the situation to drift into chaos or anarchy. Can even my Honourable friend on my left, who is the head of some labour organisation, honestly say that if there is any chaos in the country or anarchy prevailing, his labour corps will be allowed to work in peace? Before Mahatma Gandhi returned to this country, as I have said, the situation developed dangerously. In fact before he left the shores of India to attend the Round Table Conference, there were even in his presence and in spite of the Delhi Pact declarations made by responsible Congress people which not only disturbed that Pact but endangered the whole situation. I could give a quotation—I am not very fond of giving quotations but this is a very telling quotation,—to show what the situation then was in the country. This is from the printed statement supplied to us by Government and contains the opinions of the Local Governments of different provinces. This comes from Bombay:

"Mr. Vallabhabhai Patel in another speech at Bombay, on 25th June, admitted that the Congress was making common cause with the Princes, zamindars, millowners and capitalists because they wanted to achieve its common object, namely, the expulsion of the foreign masters."

Another is this:

"The President of the Congress Committee made a rabid speech advocating the use of violence to drive the British out of India saying that it was the duty of Indians to kill every Englishman or to send him to the gallows."

This was the aim and object of the party which was responsible for the situation which it was creating. There are statements made by the Local Governments in other provinces also, but I do not want to tire my Honourable colleagues with those quotations, but those of my Honourable

friends who have read this statement may know that the situation was practically similar everywhere. Before Mahatma Gandhi landed, the situation got worse. He himself, before he left the Round Table Conference, declared not only in London but on the Continent on his way back that he could very well sacrifice a million men in order to achieve his object. I believe Mahatmaji could afford to sacrifice a million men in order to achieve his object. I do not know what exact

3 P.M. mathematical calculation he made that by the sacrifice of a million men exactly he could achieve his object. If the Government were determined to maintain law and order in the country and if Mr. Gandhi wanted to sacrifice a million people, I daresay that any organised military power in the world could blow up a million people very easily. Could that sacrifice have availed the country or the Congress Party in any way, or would it have improved the situation in any way? It was lucky that these poor innocent people, whom he wanted to sacrifice, have been saved because he has been safely lodged in a secure place. That being the situation, the Government who are responsible to God and to humanity for preserving the lives of people and the honour and security of their subjects had to resort to measures which naturally were not very pleasant to the people who objected to them. I am told that the Government introduced a reign of terror and are ruling by means of Ordinances. I ask my friends on my right, if they had been in power what would they have done under similar circumstances?

Mr. K. C. Neogy: Something different.

Sir Zulfiqar Ali Khan: Something different? Perhaps even worse than what is happening.

Mr. K. C. Neogy: It may be worse for you.

Sir Zulfiqar Ali Khan: No Government I think can afford to be defied in this manner, and if Ordinances have been issued, they have only been issued to meet the situation in the country. It is for us all to have them removed, and I daresay they will not be in existence a minute longer than there is necessity for them. Now, what are these Ordinances for and what is this turmoil in the country? On the one side they say the Ordinances come quick on them and the Government on the other side say that there is necessity for them. What do the Government want to do? I daresay we all know the object. My friends on my right know why they are issued. The object on both sides seems to me the same. On our side we want the advancement of India; we want the boundaries of Indian liberties to be enlarged, and on the other side I see that the British Government are equally earnest in giving reforms and in enlarging our liberties.

Mr. Amar Nath Dutt: Only the people are not in earnest about them.

Sir Zulfiqar Ali Khan: What is the Round Table Conference for?

Mr. Amar Nath Dutt: That is for Nawabs and Knights.

Sir Zulfiqar Ali Khan: Can you send any better set of men there?

Mr. Amar Nath Dutt: Thousands and millions if only these are eliminated.

Mr. President: The Honourable Member has got one minute more.

Sir Zulfiqar Ali Khan: The object on our side, on the nationalist side, on the Indian side, is to attain to freedom; and as I have said, on the Government side . . . . .

Mr. S. C. Mitra: It is to crush it . . . .

Sir Zulfiqar Ali Khan: . . . . there is a disposition to meet those demands.

An Honourable Member: Which is your side?

Mr. President: Order, order.

Sir Zulfiqar Ali Khan: I do not mind the interruptions.

My side is the Indian side. I want the freedom of my country as much as you want it, perhaps more. I have reasons for it. The object on our side, as I have said, is to attain to freedom and on the British side there is a disposition to meet those demands. If the object is common and if the rulers are willing to grant us those liberties and we are anxious to secure them then, why this difference of opinion, and why this turmoil, what is repression for, I ask?

Mr. President: The Honourable Member's time is up.

Sir Zulfiqar Ali Khan : Can you give me some more time, Sir?

Mr. President: I have declared that I intend strictly to adhere to the time limit.

Sir Zulfiqar Ali Khan: Then I shall finish with one observation, that is to say, let both sides—the side to which my countrymen belong, I want to appeal to them most earnestly to allow the Government to create an atmosphere in which they can with peace of mind and with earnestness work for the liberties of the people.

Sardar Sant Singh (West Punjab: Sikh): Sir, I have heard with great interest the version of the Government Benches as well as that of those Honourable Members who profess to agree with the Government and yet profess to be Indians first and last. Specially the Honourable Sir Zulfiqar Ali Khan in his speech has disappointed me most when he said that the object of India is to gain freedom and the object of the Honourable Members who occupy the Treasury Benches is to grant freedom to India and therefore there should be no turmoil and no disposition to quarrel.

Sir Zulfiqar Ali Khan: I said that they ought to allow the Government to work those reforms and frame a new constitution.

Sardar Sant Singh: My Honourable friend, the Nawab and Knight of the Punjab, wants time to be given to the Government for fulfilling their professions. May I remind him, he being an older Member of this Honourable House than myself, to look up the several demands put forward in 1923 and 1924 in this House for the immediate calling of the Round Table Conference without any purpose? Was not five years time sufficient for the purpose of granting further reforms in this country if the Government had willed to do so? Did they meet that demand? They did not, I do not want to pick up a quarrel with my friend on this point.

I shall proceed to the topic which is just before the House. The main ground on which the Government Benches justify their issue of Ordinances is the maintenance of law and order. I will certainly support the Government when it comes forward with legislation for maintaining law and order, but would strenuously oppose it if it wanted to maintain order alone. The jurist who conceived this expression "law and order" is entitled to our gratitude. He placed law first and order last, and not order first and law last.

An Honourable Member: Ordinances first.

Sardar Sant Singh: We find that these Ordinances, if they are anything at all, are a negation of all laws. Criminal jurisprudence, of which we are all proud, lays down certain principles of law which should govern any community in order to maintain order in that community. But here in these Ordinances there are certain provisions which go to show that the gentleman who is reponsible for the drafting of these Ordinances did neither know the criminal jurisprudence nor did he care to act upon the principles laid down therein. Can you find any justification in any jurisprudence even of the most backward countries for this that a mother should be sent to jail because her son broke certain penal provisions of an enactment? This is what almost all the Ordinances provide. Can then any person justify these Ordinances? Sir, we are asked to place confidence in the Treasury Benches because they are out to maintain law and order in the country. I welcome this invitation, but I say before you are entitled to that confidence you ask us to repose in you, I ask you what I am here for? Am I here only to legislate that certain auditors from England be permitted to audit the accounts of the companies or to pass social legislation sponsored by my friend Mr. Harbilas (*An Honourable Member*: "He is Diwan Bahadur Harbilas Sarda"),—all right, Diwan Bahadur Harbilas Sarda? ("Hear, hear" from the Swarajist Benches.) What am I here for if I am not to be the guardian of the rights and liberties of my people whom I have the honour to represent?

Captain Sher Muhammad Khan Gakhar: It is a great mistake that you are here.

Sardar Sant Singh: Unless I expect a few crumbs from the tables of those who sit on the opposite Benches. (Laughter.) Sir, the only justification for my being here would disappear if I fail to protect the rights and liberties of my people who have sent me here. I can do so only when I am consulted in connection with legislation affecting the rights and liberties of my people. Do the Treasury Benches expect us to cooperate with them in this matter when we are ignored? If we are to repose confidence in the Treasury Benches, they must repose confidence in us, for trust begets trust. The only honourable course open to them is to lay all their cards on the table, to take us into their confidence, and then proceed to legislate in an atmosphere of peace and goodwill with the collective wisdom of this House. They think, as the Honourable the Leader of the House seemed to think this morning, that if they had brought forward legislation in this House, somebody would have come forward with an amendment that the Bill should be circulated for eliciting public opinion. Now that sort of amendment would certainly have been tabled if the Treasury Benches had not placed all their cards on the table.

[Sardar Sant Singh.]

If the Treasury Benches expect us to register all their decrees, they are entirely mistaken; we are not here for that purpose. If they want us to exercise our judgment, if they expect us to look into and examine the legislation that is brought before the House, then the only responsible way of discharging our duty is to subject the measure to a thorough and searching examination and place our views before the House in the form of criticism. The Government are expected to accept our criticism where just and honest, and reject it when not just. That is the way for seeking co-operation and for getting co-operation. We are willing to co-operate with you. We assure you that we came into this House to co-operate with you, but we have discovered that you refuse to co-operate with us. You have consistently ignored us by carrying on the administration of the country by Ordinances. This conduct of yours is a negation of the constitution which you say is a constitution which will lead us to freedom, but which, in our view, leads us nowhere. We are where we were, rather we are worse, when we help in wasting the money contributed to the exchequer by the worker and yet we find ourselves unable to help that worker to secure his liberty, to secure his life and property. Therefore, I would appeal to every Honourable Member here that if they are to function properly, they should tell the Government in the plainest language, in the bluntest manner, to be fair to us, should be honest to us and also be frank with us.

It has also been argued that this situation has been thrust on the Government. I beg to differ. We have only to recall a few incidents of the past six months, to come to the conclusion that this situation has been deliberately created by the die-hards in the Government circle, in their mad desire to crush the movement for independence in the country, the movement for freedom which my friend Sir Zulfiqar Ali Khan so much seems to like. We have not forgotten the Supplementary Finance Bill that was introduced only in November last for providing the executive with finances for 18 months. What was the necessity for it? The necessity was because at that time Government was repairing its forts and mobilising its resources to meet the situation which they intended to create. They wanted to strike terror in the country in order to re-conquer India, and so it was suggested even at that time. Government knew that the temper of the House would not tolerate the grant of any finances to the Government when these Ordinances were at work. That is why this precaution was taken to pass a Supplementary Finance Bill for 18 months. In order to fill in the picture, before Mahatma Gandhi landed in this country, the Anglo-Indian press had come out with a clear warning that he would not be allowed liberty when he landed in India. While he was in England it was brought out in the press there that as soon as Mahatma Gandhi reached India he would be arrested and placed behind bars. In India itself the *Statesman* in its issue of the 16th December, 1931, wrote as follows:

"There is to be no power parallel to the Government of India. That point is definitely and as we hope finally decided. We have every reason for believing that when Mr. Gandhi returns to India he will not be accepted as a negotiator on equal terms with the Viceroy."

The words are very significant and full of meaning. Again in its issue of the 23rd December 1931 the *Statesman* said this:

"A story has been sedulously propagated in India that Mr. Gandhi in his last interview with Mr. Ramsay MacDonald obtained from the Prime Minister an undertaking that if Mr. Gandhi saw the Viceroy on his return to India there would be a chance of a bargain on the basis that the Ordinances should be repealed and civil disobedience should not be revived."

Mr. A. H. Ghuznavi: What is the paper you are quoting from?

Sardar Sant Singh: I am quoting from the *Statesman* dated the 23rd December 1931.

Mr. K. C. Neogy: The master of the Government of India.

Sardar Sant Singh: These are the words, Sir. If this documentary evidence is not sufficient evidence to prove my point that the Government was creating a situation in order to strike sharp and swift blows on the Congress, I wonder whether any other evidence will convince those who do not want to be convinced. As my time is up, Sir, I close my observations.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, when I read this Resolution it reminded me of a story. When a murder trial was going on, the judge asked the jury after the evidence had finished to retire for a unanimous verdict. When the jury returned, the judge asked them if they had come to a unanimous conclusion. They said, no, and that they were divided. Some of the members of the jury thought that the man was guilty under section 302, that is murder, while others thought that he was guilty of culpable homicide not amounting to murder, that is section 304. The judge asked them to retire and bring in a unanimous verdict. When the jury returned, the judge asked them whether they had come to a unanimous conclusion. The jury replied, yes. And what was that? They said, "we find the man guilty under section 303,"—which is neither section 302 nor 304. When I read this Resolution, I found that a compromise had been arrived at on this Resolution which makes it neither section 302 nor section 304. It makes it a very anomalous Resolution, one paragraph of which has no connection with the other paragraphs. If the first paragraph is read, I do not see how the reasoning which is contained in it can govern the recommendation which is embodied in the Resolution. The preamble goes on, whereas this Assembly finds this and that, therefore it recommends the following. If the 1st and 2nd paragraphs of the preamble are to be related to the 1st and 2nd recommendations, I find that there is nothing in common between them. (*Mr. B. Das*: "What is your section?"). If there were paragraph 3 only as the beginning of the Resolution and it contained only the first two recommendations, there might have been something in common between those three paragraphs, but when we come to the third recommendation, I do not see how any connection can be traced between it and the third paragraph of the preamble. It should have been like this, this Assembly recommends to the people concerned, to the Congress and other organisations, to keep quiet in order to let the reforms come in a peaceful way to the country. That would have been more suitable. I find that it has been made out by some Honourable gentlemen that it is a very harmless recommendation made to the Governor General in Council and that it is not a vote of censure, while other Honourable

[Mr. Muhammad Yamin Khan.]

Members have interpreted it in a totally different way, who say that it is a Resolution of censure and it was meant to be a Resolution of censure. Sir, I do not know why the authors of the Resolution felt so shy, of not openly telling people that they meant it to be a vote of censure on the Government, and why they thought it necessary to bring forward this Resolution in such a crooked manner. I like open things. If people want to fight, let them fight openly. That will give them more credit. An open fight is much better than this sneaking way. People would then be able to come to a definite decision. Saying one thing on paper and talking another thing in their speeches,—that absolutely leaves one in a hopeless condition to come to any useful conclusion. That shows that the man is not believing what he is saying.

What does the Resolution want? There is one paragraph in the preamble which I could endorse, but I would leave the whole preamble altogether and see what the recommendations are. I will start from the third recommendation. It is suggested that the Governor General in Council should secure the co-operation of all organisations in the country in the inauguration of a new constitution for India. I am quite at a loss as to what kind of co-operation is intended in the Resolution. As far as I know, last year in Delhi there was a pact arrived at and the co-operation of all was sought by His Excellency Lord Irwin and his Government, and people who were not then willing to co-operate with the Government were asked repeatedly through the intervention of some gentlemen to come and co-operate, and full opportunity was given to them to go to the Round Table Conference and arrive at an agreement on the future reforms. This opportunity having been given, what more is expected from the Government? What my Honourable friend has in his mind I do not know. If he means by this co-operation that people should come up and say "Look here, you have afforded every opportunity to us to co-operate with you, but we are not going to co-operate with you. You have given the reforms, but as matters have not been finally settled, we are going to create a kind of row or disturbance and an atmosphere which can never be conducive to the ushering in of any reforms"—if that is the co-operation that he intends, I do not think that my Honourable friend was very serious when he asked for the co-operation of the Congress. What did the Congress do? I am aware of the events in my own province. Last year and this year their activities were to create disturbances in the villages, excite the tenantry against the zemindars asking them not to pay rent to the zemindars. In this way they sought to catch the popular imagination. It is very easy to ask anybody not to pay taxes. A villager does not want anything more than that. The tenant is very pleased if the future Government promises them that he will not be asked to pay any rent. If that is the co-operation that my Honourable friend has in his mind, that the tenantry must be let loose and must not be asked to pay a single pice as rent to the zemindars, I think he will be greatly mistaken if he expects any support to such a proposition. The zemindars in the United Provinces have given up more than four crores of rupees out of their rent, while they have been allowed only about a crore of rupees from the land revenue. This means that they have incurred a loss from their own pockets to the extent of three crores. When the zemindars have given up to the extent of Rs. three crores, some gentlemen come up and start a class war and incite the tenantry not to pay even this much to the zemindars. This is bound to create a feeling

of enmity between the zemindars and the tenants, and this will result in a war between the two classes. Can this be tolerated in the country? Does my Honourable friend ever think that this will bring about a peaceful evolution of the reforms in this country? Somebody will ask me why these people took it into their heads to support this. Some have suggested that the tenantry could not pay. I doubt it, because the zemindars have never asked the tenants to pay if they could not and because they were anxious to keep the tenants in their villages. If the villagers run away, then the zemindars cannot get people to cultivate their lands. The real reason is that these people want to capture the popular mind. It is the intention that soon after two years when the new reforms come in these people will capture all the seats in the Legislatures, and with this intention they are creating a disturbance in the country. That is the real hidden motive which they dare not say openly, and with this object in mind they are creating an atmosphere which can never suit the progress of the country and will impede the progress that has been made up to now. The economic depression is so acute that whoever has got to pay, zemindar or tenant, can be easily captured by this popular sentiment that they will not be required to pay.

Speaking about my own constituency, I say that one of the biggest landlords was attacked by the no-rent campaign. He was particularly chosen because his influence is so strong that if he could be destroyed the other zemindars could be easily destroyed. That gentleman is known to every one in the Indian Legislature. He had been a Member of the other House from the very beginning of the reforms. His name is Nawab Sir Mohd. Mozamilullah Khan. Then they started with the other estates. I do not think, Sir, anybody who has the interests of law and order at heart can sympathise with this Resolution. I have finished my time and I will conclude with only one word. If any peaceful atmosphere can be introduced by any measure which has been introduced, so much the better. If the law cannot be made by this House or the peace cannot be restored by a law made in this House, then we welcome any law made by the Governor General on his own responsibility in order to restore peace and support the Government, who have brought the Ordinances into force after consultation with the Ministers in the provinces who are the elected representatives of the Legislatures. Therefore I oppose the motion.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): Mr. President, government by Ordinances must always be repugnant to liberal principles; and however much Ordinances may or may not be justified, I think every Honourable Member in this House will agree that no Ordinance should interfere with the liberty of law-abiding citizens, and no Ordinance should infringe upon the civic amenities of life, and above everything else no provision in any Ordinance should hamper legitimate political activities. I think that is a principle which will be acceptable to every Honourable Member of this House, and I propose to examine some of the provisions of the Ordinances to see if they are in consonance with the principles I have just enunciated. Do these Ordinances interfere with the ordinary liberties of citizens? I make bold to say that, if these Ordinances are given to any impartial Judge outside India to examine whether he be a lawyer or layman, and if he comes to the honest conclusion that, taken as a whole, they will not interfere with the liberties of the people in the country in which they are enforced, I will stand corrected and will be prepared to oppose this Resolution. But, on the

[Sir Cowasji Jehangir.]

other hand, if it can be successfully proved that there are certain provisions in these Ordinances which cannot be worked without considerable harassment and without a curtailment of the liberties of the people, then I say it is time that this side of the House pointed out these facts to Government. I will only illustrate what I mean by two provisions in these Ordinances. Section 3 (*1*) of Ordinance II gives power to any Provincial Government and officers of Government to arrest a person who has acted or is acting or is about to act in a manner prejudicial to the public safety or peace. I will ask my Honourable friend the Home Member whether he will with certainty be able to say how a man is about to act. I can understand taking action against a man who has acted, but to talk about a man who is about to act is a most extraordinary and risky proposition, and if the officers of Government do make mistakes and act unjustly, I cannot blame those officers of Government. I lay the blame at the doors of those who have framed these Ordinances. It is they who are responsible and not any individual officer of Government. Sir, when such Ordinances are promulgated, we do not desire to attack officers of Government. At least I do not. I desire to attack the fountain source that promulgates them. I desire to attack the fountain source that puts officers of Government in the position in which they do place them; of trying to guess what particular individuals will do and so arresting them beforehand, of trying to guess what such men are about to do! No wonder injustice is committed! That is no fault of the officers themselves, it is all the fault of the Ordinances.

I will now point out another provision. Many Honourable Members of this House may be surprised to hear that the advocacy of temperance, the advocacy of the use of *khaddar*, even the advocacy of Swadeshi or of the use of Indian-made goods is an offence under these Ordinances (*Cries of* "Shame, shame.") Sir, in England "Buy British Goods" has been advocated by the highest in the land so successfully that today "Buy British Goods" is almost an article of religion in England. Surely, then, no Government can make "Buy Indian Goods" even a technical offence.

The Honourable Sir James Crerar (Home Member): Will the Honourable Member be good enough to inform the House under what provisions of the Ordinance the action he refers to is a criminal offence?

Sir Cowasji Jehangir: I am surprised, I am astounded at that question. (*Some Honourable Members from the Non-Official European Benches*: "Answer it.") Under the Criminal Law Amendment Act. I am surprised that the attention of Government has not been drawn to it. (*Some Honourable Members*: "Point out what you mean clearly".) Any propaganda of an association carried on by any one who, mind you, may not be a member of the association that is declared to be unlawful is illegal: if such association advocated a certain thing, any propaganda carried on by a person independently is liable for an offence under the Criminal Law Amendment Act although such a person may not be a member of that association. You have declared certain associations unlawful. The main propaganda of those associations was the advocacy of *khaddar*, temperance and Swadeshi. You have made such propaganda technically illegal. (Hear, hear.) Now I have been drawing the attention of Government to this fact privately for some time, and asking for a declaration from Government that they will not act against these technical liabilities, and I have

not yet heard any member of Government, either here or in the provinces, declare that they will take no action against men who are advocating the use of *khaddar*,—and I am now asked, under what section this is illegal! (*Cries of* "Shame, shame.")

Mr. F. W. Allison (Bombay: Nominated Official): May I ask in what part of India such action has been taken? (*Some Honourable Members*: "Everywhere.")

Sir Cowasji Jehangir: I wish such questions would not be asked, because you will find that a good many officers are acting in this particular direction, and let us not complicate the matter further. I have heard of a Swadeshi exhibition having been broken up, it is said, by accident, by mistake. (*Some Honourable Members*: "Deliberately.") Technically, it is an offence, but I say it is up to Government here and on the spot to declare today that such activities will not be held to be illegal by them in practice, even though they are illegal in law.

Mr. K. C. Neogy: But what will happen to Lancashire?

Sir Cowasji Jehangir: I do not want for one moment to believe that Government want deliberately to do that.

Some Honourable Members: But we do.

Sir Cowasji Jehangir: I myself do not want to believe that Government have promulgated these Ordinances in order to help Lancashire (*Some Honourable Members*: "But we do. You may not.") I only want to say that the effects of these Ordinances are what I have stated them to be, and I ask any member of Government here to clear the position today by stating that neither they nor any Provincial Government will take action under these Ordinances in the particular directions I have pointed out.

Mr. F. W. Allison: May I ask my Honourable friend . . . .

Some Honourable Members: Order, order, Sir Cowasji is not giving way.

Sir Cowasji Jehangir: What is it my Honourable friend wants to ask?

Mr. F. W. Allison: May I ask if such action has been taken against the spinning associations of Bombay? Can my Honourable friend point to any instances in the Bombay Presidency where such action is alleged to have been taken?

Sir Cowasji Jehangir: I am very glad my Honourable friend has asked that question. I was coming to my own Presidency. I am not here to represent only my own Presidency. I very readily and gladly admit that in the city of Bombay the Government of my Presidency has worked these atrocious Ordinances with consideration and great judgment. (Hear, hear.) (*Some Honourable Members*: "But they have asked for the recall of the Governor of Bombay!") I do not believe that story,—I believe that story is absolutely untrue, but I do make this admission most gladly on the floor of this House, not because I happened to be once a Member of the Government of Bombay, but lest my remarks may be misunderstood. As for the stories one hears, most probably a good many of them are not quite correct, perhaps 99 per cent. of them are not true, but if only one per cent. of them be true, then surely it is time for Government to wake up.

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Now, Mr. President, so much for the provisions of these Ordinances. The Resolution complains about the working of the Ordinances. I complain most bitterly against some provisions of these Ordinances. I have no time at my disposal today to go into any more of the provisions of these Ordinances. There are several. One of them was mentioned just now under which a parent was fined and imprisoned for the act of his 16-year old boy, over whom he could have no control. There are several other provisions, and I am sure the Law Member knows them well. (*An Honourable Member*: "Does he?") Any way, let us not close our eyes to the effects of these Ordinances as they are at present worked. They affect the lives of people, men and women who have no connection whatsoever with any subversive movement, who take no part in any political movement. Surely, let us not close our eyes to the effects that these Ordinances must have upon this country. Do you, Mr. President, think that they can work some of the provisions of these Ordinances, which are really most objectionable, without creating a considerable amount of ill-feeling? Was it all necessary? Did the occasion demand that you should have such atrocious provisions? If you have such provisions, is it right for you to complain and throw the responsibility upon your officers if injustice is done? You yourself should boldly come forward and change the provisions and save your officers from working Ordinances which they are unable to work fairly and justly to the people. What are the consequences? Ill-feeling, bad blood,—ill-feeling that is not going to die out soon,—ill-feeling and bad blood, which may not be apparent immediately because of these Ordinances, as it may not be given expression to. But, believe me, Mr. President, as one who,—I repeat what I have declared at the Round Table Conference,—as one, who will fight for the British connection till the end of my days, I say some of the provisions of these Ordinances are weakening the links that tie England and India together and if Government persist in allowing these Ordinances to stand, then they will themselves help to break those links that men like myself are most genuinely anxious to strengthen with all the power that remains in us till the very end of our days. I just want to say a few more words. Have I the time, Mr. President? Mr. President, may I have just one minute more to complete my remarks.

Mr. President: The Honourable Member has got only half a minute more of his time.

Sir Cowasji Jehangir: Government may capture one or two votes by this censure stunt. A censure means that Government must resign. (*Cries of* "No, no" from Government Benches.) Oh, yes. But are Government going to resign if this censure motion is passed? I make bold to say that such Resolutions have been passed by dozens in this House and they have not had the slightest effect upon Government. Therefore, to call this a censure motion may be an excellent stunt, which will catch one or two votes and may bring you victory. The opportunity has however been given to us to tell Government exactly what we feel, and I trust Government will take some action in their own interests. (*A Voice*: "Very optimistic".)

Mr. E. Studd (Bengal: European): Sir, when I first read this Resolution, I was somewhat forcibly reminded of the experiences of childhood days when it was a favourite practice to wrap up a dose of bad medicine in something a little more palatable in the hope that it would go down.

As I read through this Resolution, I found that about three-quarters of it was given up to three long paragraphs of preamble each of them starting with the word "Whereas", a word beloved of lawyers but one which is rather inclined to confuse the poor ordinary business man. It seemed to me that the real sting of the Resolution was in the three recommendations at the end and that the three paragraphs of the preamble had been put in at the beginning in the hope of placating and possibly capturing the votes of a few waverers.

Mr. B. Das: We do not expect you to vote with us.

Mr. E. Studd: Quite right. I was little uncertain, and so were one or two colleagues of mine, as to how much weight ought to be given to some of these paragraphs of the preamble. Fortunately, my Honourable friend Mr. Ramaswami Mudaliar cleared that point up quite decisively, for he said the preamble is nothing; it does not count at all. I confess I hoped that it would count a little, because there is at least in the preamble an expression that this Assembly condemns terrorism and the no-rent campaign. But apparently that does not count at all, and I could not help being struck during the course of the debate by the fact that, while, a number of speakers have said that they do not belong to the Congress Party, that they do not back the Congress Party up, there has been extremely little said in the way of a definite and strong condemnation of terrorism and of the acts of the Congress Party. It seems to me that it is not sufficient nowadays merely to say that one does not approve of terrorism or one does not approve of no-rent campaigns. The days of pious expressions of that sort have gone, and I believe that the time has come when those who really and sincerely do not approve of them have got to come out into the open and be prepared to take strong and possibly drastic action to cope with these evils. Now, Sir, I have listened carefully to the speech of the Mover of this Resolution. Apart from his arguments on legal technicalities, which I neither desire nor am qualified to touch, it seemed to me that, while he devoted a certain amount of his time to destructive criticism, he really only had two points which he tried to make. The first was that these Ordinances interfered with the fundamental rights of certain citizens. The second was that excesses had been committed under the Ordinances. Now, Sir, one or two speakers before me have referred to the fact that if a citizen fails to carry out his fundamental duties as a citizen, he has very little right to talk about fundamental rights.

Mr. K. C. Neogy: What are the fundamental duties of this House?

Mr. E. Studd: There is a vast number of people in this country who, to my mind, have been suffering from the action of Congress and the terrorists. They have been subjected to social boycott and to picketing. They have been interfered with in every possible way in the ordinary avocations of their life. What about their fundamental rights? ("Hear, hear" from the Government Benches.) Have not they a greater claim to fundamental rights than the people who have been deliberately breaking the law and, in addition, are not there very many more of them? Therefore, it seems to me that there is every justification for the Ordinances which have been introduced and the Mover of this Resolution has a precious poor case when he starts arguing about fundamental rights being interfered with.

[Mr. E. Studd.]

Then, Sir, he talked about excesses. I imagine that there is no reasonable man who will maintain that with action such as has been necessary under these Ordinances over such a vast country—I might almost say continent—they could possibly be worked without in some cases excesses being committed. I yield to no one in my sympathy for those who have suffered wrongly through possible excesses of that sort, though I have not been impressed with details which have been given during the course of this debate on this subject. It is very easy to make sweeping statements about excesses, but that does not get anyone anywhere. To my mind, we have had ample assurance from the Government Benches that any definite instances of excesses that are brought to their notice will be inquired into. Sir, on this point there is still another side. What about the excesses committed by the Congress Party and others? What about the poor wretched policemen who had a brick dropped on their heads from the roof of a house, or people whose families have been boycotted and whose homes have been picketed? We have heard nothing about those excesses which these Ordinances are an attempt to stop. It seems to me that there has been a great deal of argument all round the real point or avoiding it, and I should like to repeat what my Honourable leader said. The real basis of the whole thing seems to me to be this: Are we all agreed that law and order must be maintained? I personally, not being a lawyer and not being very much of a politician, am disposed to disagree with my Honourable friend over there who said that he would only have the order if he could have the law too. I am rather inclined to think that if the man in the street was given the choice and told that he could have either "law" or "order" but not both, most of them would choose "order". The second point is: Are we or are we not agreed that the Congress has been a subversive body and that it should be so dealt with and that strong measures are necessary? Those two points, to my mind, have largely been ignored or avoided by the Opposition. Personally, I do not think that any sane and reasonable man can read through that budget which has been submitted to us giving a short history of what has happened in the provinces, without being profoundly convinced that the Congress has been a subversive body. For my own part, I am amazed at the forbearance that Government have shown in handling the situation.

Mr. K. C. Neogy: You had your Black and Tans at Chittagong: Go ahead with it.

Mr. E. Studd: It seems to me that the best possible answer to the last clause of this Resolution is that Government have done everything possible to try and get the Congress Party to co-operate. The Congress Party have thrown out a challenge to Government and Government had no option but to take it up.

My Honourable friend Mr. Mudaliar complained that Government treated this House as if it was not to be trusted to pass adequate measures to deal with the emergent situation which has arisen. I admit that my experience of this House has not been a very long one. But I must confess that while I have been here, it has seemed to me that, whenever any question comes up for strong and rather unpleasant powers to deal with a difficult situation, the Opposition has always been eager either to dig its toes in and give no powers, or to criticise the action which Government have taken to deal with an unusual situation. He asked what

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was the difference between this House and the Bengal Legislative Council. I think I can answer that question in a very few words. Most Honourable Members will no doubt remember the Bill to which the Leader of the House referred, the Bengal Criminal Law Amendment Act. That really consisted of two Bills, one which contained very wide powers which the Government of Bengal was asking for and which was submitted to the Bengal Legislative Council. The other which contained powers not nearly so wide as the ones in the provincial Bill, which was submitted to this House. The Bill in the provincial Council was passed by a large majority. To the Bill in this House for which the Government asked for a Select Committee an amendment by the Opposition was carried against Government and the Bill was circulated for opinion. That shows the difference between the two. I must confess that, as far as the community to which I belong is concerned, I believe that if only the Opposition could be induced to come out into the open and be strong enough to face the fact that exceptional measures have to be taken and unpleasant powers have to be given to Government to cope with an emergent situation, I believe, Sir, that that would do more to allay the misgivings which exist in a large section of my community than anything else.

Now, Sir, my time is almost up and there is only one other thing which I should like to say. We have heard a great deal of the evil effects of these Ordinances, the way in which they have been abused, how people dislike them and how they are creating hatred and mistrust. I should like to ask Members of the Opposition, if they can, to try and get away for a moment from the political atmosphere, to try and take an outside view of certain things which happened almost immediately these Ordinances were introduced. I am speaking at the moment, more particularly, of that province which my Honourable friend Mr. Amar Nath Dutt, so often describes as "unhappy". I think there are times when facts are more eloquent than words and when these Ordinances were first introduced there were a number of people in Calcutta, who while they were fully convinced that they were absolutely necessary, looked upon them with a certain amount of misgiving because they were afraid that they would be just one more depressing factor in the already depressed markets of trade and commerce.

Mr. President: The Honourable Member's time is up.

Mr. E. Studd: I shall finish in half a minute. From one market and another came in reports, not that the market had gone down but that the market had gone up, that there was a sincere sign of relief everywhere at the strong action taken, which is also borne out by the fact that Government securities rose instead of falling. I strongly support the Government. (Applause.)

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): I rise to support the motion before the House. As previous speakers have said, the motion before the House is the mildest that any body of sober-minded and reasonable men could draft, considering the gravity of the situation in the country, considering also the resentment caused by the contemptuous treatment accorded by Government to the meekest of the legislative bodies in the world, the Legislative Assembly of India, and considering also the anger, the alarm and the dissatisfaction which men and women in this country feel at the manner in which some of the affairs of this country are administered at the present time.

[Diwan Bahadur Harbilas Sarda.]

I wish to confine my remarks to only two points, but those two points go to the very root of the matter as they have caused serious searchings of heart even in the minds of the most moderate of men. Sir, I am no Congressman. I have never been one. My training, education, and outlook on life have not been those of a revolutionary; but even I find it impossible not to condemn and condemn severely the way in which things are administered with the aid of the *lathi* in the country.

Sir, before I go on to those two points, I wish to note the rapid progress which this country, in the opinion of British Government, is making towards its goal—the attainment of freedom—which fact is noted in the remark of the Secretary of State when he talks of the barking of dogs. Sir, not very long ago the Secretary of State for India, one of the predecessors of Sir Samuel Hoare, said "Mr. Gandhi was imprisoned and not a dog barked". The present Secretary of State says, "The dogs are barking, but the caravan goes on". And, as sure as day follows night, the next Secretary of State will say "The dogs have been barking, the caravan has stopped or is returning home." And then the curtain over the struggle for freedom in this country will fall.

The first point to which I draw the attention of this House is the perfect non-chalance with which Government have ignored every legitimate interest and the utter contempt with which Government have treated the most authoritative body, established by law in this country, the Legislative Assembly. Eleven years ago with a flourish of trumpets and the fantare of bugles, the British Government declared that in gratitude for the invaluable help given by India to England in her hour of need, England had changed its angle of vision and was going to divest itself of all legislative authority with regard to the administration of the country, and that it had established a Legislative Assembly with an elected majority for making the laws of the country. But what is the fact now? Ordinance after Ordinance, the succeeding one going further than the preceding one, has been promulgated, and though the Legislative Assembly has been summoned, the Government have refused to place before the Legislative Assembly the subject-matter of these Ordinances for legislation. Does this not show the people the unreality of the whole thing? Under the constitution Government had two alternatives and they could adopt one of the two if they wanted not to flout the constitution. If they thought there was an emergency, they could promulgate the Ordinances, but when the Assembly met, they should have placed them before the Assembly. Whether the Assembly passed those Ordinances or not, Government were empowered to certify them and make them laws. The other alternative was to make these Ordinances, suspend the constitution for a time until they thought peace was established in the country to allow of the ordinary administration being carried on in the ordinary way, and then summon the Assembly and carry on the administration after the Ordinances had lapsed. In adopting any of these alternatives Government would have been technically right.

The Honourable the Leader of the House said that Government knew from their experience of the Public Safety Bill that this House would not pass any legislation which was placed before it to meet emergencies, and consequently it was no use wasting time. But is that any argument for flouting the constitution? Government knew very well that the Finance Bill imposing fresh taxation would not be approved by this Assembly and

yet they summoned the Assembly and certified the Bill when it was thrown out by the Assembly. Why could not the same thing be done in the case of the Ordinances to show respect for the constitution?

My second point is with regard to the frame and the working of the Ordinances. Even under the constitution, it cannot be said that unlimited power vests in the Government of India or the Governor General. There are limitations not only to law but on the power to make Ordinances. I am glad my Honourable friend the Law Member is here as I wish to ask him a question or two. It is ordained in one of the Ordinances that a man who, in passing through a bazar, is attracted by a fine Benares brocade or the variegated colours of a *sari* dyed in Jaipur, and stops there looking at it, can be arrested and imprisoned under the Ordinance.

The Honourable Sir Brojendra Mitter (Law Member): Which Ordinance is that?

Diwan Bahadur Harbilas Sarda: You don't know it? It is the Emergency Ordinance. Any man who loiters before a shop and stands before it without any intention of buying or interfering with the sale is liable, if the Government wish, to be arrested.

The Honourable Sir Brojendra Mitter (Law Member): Will my Honourable friend kindly refer me to the section?

Diwan Bahadur Harbilas Sarda: Sir, my time is short and I have not the Ordinance with me to answer him.

Another point is this. There is a *hartal* in a town and a nervous shopkeeper closes his shop not because he has any sympathy with the Congress, not because he does not mind losing his custom owing to the *hartal*, but simply because he is afraid of having his shop looted when he sees gangs of rowdies and groups of famished people going about the town. He shuts his shop, puts on a lock and goes home. Government can arrest that man, lock up his shop, stop his business and send him to jail. This has actually happened in Calcutta and in other places. Is such a power given by any constitution any Government possesses anywhere in the world? I ask the Honourable the Law Member who, having been a devoted votary of the law, has risen to this eminent position to rise and to uphold the dignity of law, explain for the edification of this House those principles on which this power can be legally obtained and used by a Government.

Sir, another point to which I wish to draw the attention of the House is the manner in which the agents of the Government in some places.—I do not say all places,—have administered the Ordinances. Respectable women, finding that their husbands or sons or brothers have been arrested or wounded or killed, go to some place to express their sorrow or grief, meet together to devise means for bringing the matter to notice of the Government, are arrested, imprisoned, and beaten with *lathis* and, what is more, they are treated in the prisons like felons, like moral delinquents and renegades and are placed in class III. These women never joined the Congress before, they had nothing to do with political agitation, but owing to domestic circumstances and afflictions they leave their homes and this is the treatment meted out to them. Sir, I have studied law to some extent: I have been a Judge myself for several years in the service of the British Government; but I have failed to find out under what law a man who is not guilty of any act of violence but simply sits down on the

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road can be assaulted with *lathis* or fired at. The law is plain. Arrest him, imprison him, fine him, do what you like with him according to the provisions of the Criminal Procedure Code or the Indian Penal Code, but why assault him, why wound him? He has not raised his hand against anybody, he has not said a word against anybody; yet you thrash him with a *lathi*, and leave him wounded on the street. Is that not a clear case of assault by the executive on the people of India? I should like the Honourable the Law Member to explain to us under what law this is done. Sir, while these things are going on, much as we desire to co-operate with the Government, much as we desire to see peace and order prevalent in the country, it is not possible for the elected representatives of the people to come here and sing hallelujas to the glory of the almighty British Government in India.

Maulvi Sayyid Murtuza Saheb Bahadur (South Madras: Muhammadan): Sir, in supporting the motion before the House I have to bring a few points before your notice. First of all, no Member from the Treasury Benches has up till now justified the arrest of Mr. Sen Gupta. No one up till now has said a word in justification of his arrest. Because they can't succeed in justifying it.

As regards Gandhiji it has been admitted on all hands, even by his enemies, that he is the incarnation of non-violence. Non-violent he is, not only in action but also in thought. Christian missionaries have hailed him as a prophet. We the Mussalmans cannot accept that view, but we cannot but be his admirers. As regards Khan Abdul Ghaffar Khan, my friend Sir Evelyn Howell said yesterday that had it been any other Government but the British, Khan Abdul Ghaffar Khan would have been deported long ago, that he would have been subjected to many a greater hardship and so forth, but I will try and convince my friend,—I am sorry I do not find him in his seat here today,—that had it been any other Government but the Government of India, Khan Abdul Ghaffar Khan would have been given some *Jagirs*, some *Inams*—(*An Honourable Member*: "Why?")—I will give the reason presently as to why he deserves some *Inams* or *Jagirs*. The House knows what was the state of affairs in the North-West Frontier. During my collegiate days, Sir, I was surprised to learn that Europeans were murdered for nothing, simply because the people there were under the erroneous impression, which is of course against Islam, that killing an Englishman was a virtuous act. Those days are now over. How was this mentality brought about among the Pathans and the youths of that province? It is because gentlemen of the stamp of Khan Abdul Ghaffar Khan propagated the creed of non-violence and gave a splendid training to 'Red Shirts'. ("Hear, hear" from the Nationalist Benches.) When last year I referred to the atrocities perpetrated in the North-West Frontier Province, my friend Sir Evelyn Howell, after my speech was over, said that he felt hurt to hear the words from me like "atrocities perpetrated", and I said that if he had only read the Report of Mr. V. J. Patel, your predecessor, he would have been convinced of the truth of my assertion. Sir, . . .

An Honourable Member: Where is he now?

Maulvi Sayyid Murtuza Saheb Bahadur: He is now a guest of His Majesty's Government. I said that if my friend had read the Patel Committee's Report, which unfortunately has been confiscated, he would

have found that 250 Pathans were put to death for no offence and yet they exercised considerable restraint over themselves. The Pathans of the province acted up loyally to the principle of non-violence. This is the outcome of the teaching of Islam, which was renewed by Khan Abdul Ghaffar Khan. I am sorry, I have to observe that my colleague, Sahibzada Sir Abdul Qaiyum, in levelling a charge against Khan Abdul Ghaffar Khan said that he went about propagating the principle of complete inoependence. I say, Sir, there are so many amongst us here who are for complete independence even now. ("Hear, hear" from the Nationalist Benches.) My friend Sir Henry Gidney may say that we can only give expression to these words inside this House and not outside the Assembly. Sir, I am quite prepared to give expression to these words even outside the Assembly though I am not connected with the Congress. Sir, when the animal kingdom wants complete independence who is there among us not having a burning desire for it?

Mr. Arthur Moore: Has the Honourable Member not taken the oath of loyalty?

An Honourable Member: What a point of order!

Maulvi Sayyid Murtuza Saheb Bahadur: I am as loyal to His Imperial Majesty as my Honourable friend Mr. Arthur Moore is.

Mr. Gaya Prasad Singh: It is just like the Editor of the *Statesman*.

Maulvi Sayyid Murtuza Saheb Bahadur: Aspiration for complete independence does not mean that one is wanting in loyalty, and Mr. Moore, as an Englishman, ought to have realised this.

An Honourable Member: Send him to his moorings. (Laughter.)

Maulvi Sayyid Murtuza Saheb Bahadur: Sir, every one of us is an aspirant for complete independence. Much more so is the case with a Muslim. Now, according to Islam, what is patriotism? "*Hubbul Watane minal Iman*". Love of one's country, love for liberating one's country is the cardinal faith of Islam". ("Hear, hear" from the Nationalist Benches.) This is the tradition of our Holy Prophet. May Peace be on him. Can anybody challenge it? No, certainly not.

Now, as regards the specific charges which my friend Mr. Moore wanted to be convinced of my Honourable friend from Madras, Mr. Shanmukham Chetty, gave a good many this morning in his very eloquent speech. Those instances relate to my province, where the civil disobedience movement has not spread to the extent that it has in the Andhra District. Sir, my Honourable friends, Diwan Bahadur Ramaswami Mudaliar, Mr. Chetty, Raja Bahadur Krishnamachariar and myself represent Tamil Naidu where civil disobedience is not in full swing, and yet what do we find there? Two or three have succumbed to injuries caused by inhuman *lathi* charges. (*An Honourable Member*: "Shame.") And then what transpired in Tellicherry, which was questioned by my friend Mr. Arthur Moore? He asked us—"How do you know that the I. C. S. officer concerned is an European?" Even granting that the District Magistrate who ordered the removal of the *Thali* was an Indian I. C. S., we say that the agents of the Government do not work these Ordinances with moderation as has been stated by the Home Member.

Mr. Gaya Prasad Singh: The Magistrate is an European I. C. S. The name is given out in the *Hindustan Times* this morning, although the *Statesman* has suppressed it.

Maulvi Sayyid Murtuza Saheb Bahadur: I say that even granting that it was an Indian I. C. S., he will not work the Ordinances justly and moderately.

As regards the excesses which my Honourable friend Sir Abdul Qaiyum wanted to mention but which he could not for want of time, there can be no two opinions at all on the point. Again, I find that my friend Sir Evelyn Howell is not in his seat, and it is very unfortunate. Sir, it has been brought to my notice by responsible persons in the North-West Frontier Province that the jewels of some ladies who were saying their prayers were removed, and when after finishing the prayers the lady concerned brought the matter to the notice of her husband, he went to the station and complained to the proper authority. What was the consolation he gave to the husband of that lady? He was told—"Oh, you should regard yourself as fortunate that your wife has not been eloped, but only jewels were removed". (*Voices*: "Shame, shame" from the Nationalist Benches.)

(At this stage Mr. President vacated the Chair which was taken by Mr. Deputy President.)

Can there be anything more disgraceful than this? Such disgraceful and barbarous treatment has been meted out to Pathans, and yet the Government say that it wants to create the North-West Frontier Province into a Governor's province placing it on the same lines as other provinces. Sir, first of all the Government have not given effect to the recommendations of the Frontier Regulations Enquiry Committee, although a month has passed since the publication of the report. And yet the Government say they want to raise the North-West Frontier Province to heaven as they have raised all other provinces! I am afraid my time is up. Before completing my speech, let me address the Honourable the Home Member. (*An Honourable Member*: "He is not here.") Then I address it to the Leader of the House. There is a Persian couplet of Sadi which runs thus:

"Ai Zabardast Zair dast azar
Garm ta kai bemanad een bazar."

'Mother India says, 'Oh, tyrant, you have got the upper hand now, and you want to oppress those that are under you, but know full well that this state of affairs cannot continue long. Your shop will collapse soon'."

This is the appeal made by Mother India to the Government Benches. (Applause.)

Kunwar Hajee Ismail Ali Khan: Let the question be now put.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): I accept the closure. The question is that the question be now put.

The motion was adopted.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): After two days' debate and attacks and counter-attacks, there is indeed very little for me to say. But I rise with particular regret because I find that the Leader of the House and the leader of the European Group both combined in giving the identical reason why these Ordinances were not placed before the Assembly, either before they were promulgated or immediately after they had been promulgated. The Leader of the House made no secret of the fact that, knowing the history of this Assembly which threw out the Public Safety Bill three years ago and enacted the Press Bill only last year, there was no assurance that the intention of the executive Government would be endorsed by the Legislature.

The Honourable Sir George Rainy: Might I say this, Sir? What I drew attention to was the length of time the Bill would be before the Assembly—that was my point. I might also perhaps remind my Honourable friend that the Public Safety Bill was not thrown out by the Assembly.

Sir Hari Singh Gour: Sir, I was conveying the sentiments expressed and left unexpressed by the Leader of the House. The real reason why he did not take this House into his confidence was that he had apprehensions that the intention of the executive Government to give them a clean slate would not be carried out by this House.

The Honourable the Home Member in replying to the debate, very adroitly and in a skilful manner, evaded the issue. He gave absolutely no reason why the Ordinances were not brought before the Legislature, but he simply said that the Government must govern. Sir, I would ask the Home Member that if the Government have the right to govern, have they equally the right to misgovern? And what are these Ordinances? Has any justification come from any Members on the opposite Benches, justifying any single provision of the Ordinances dealing with and attacking the right and liberty of person and property in all parts of India? I complained, and I repeat my complaint, that these Ordinances have placed the entire population of India at the mercy of the executive Government. That is our complaint. That the plenary powers that you have taken offend against the very fundamental rights of humanity and fair play to which, apart from the constitution and apart from constitutional precedents, every human being is entitled—can you deny it? You have suspended the operation of the ordinary law. You have annulled the ordinary procedure, and you have under these Ordinances placed the executive Government in sole charge and in sole custody of the rights and privileges and property of the people of this country. Is there any man so lost to sense or so lost to reason as to come to your rescue on this occasion? If he does so, all I can say is time will answer. (Cheers.)

(At this stage Mr. President resumed the Chair.)

Sir, we have been told by the Home Member that these Ordinances have been used with moderation and that they have been used by people subject to strict discipline. You have heard the answer from all sides of the House to the challenge made by Mr. Moore to give him specific cases. A multitude of cases has been given by the Members of this House; they are too horrifying for any Member of this House to tolerate. And what is the reply? The reply given by the occupants of the Treasury Benches is that if you give specific cases we shall enquire into them. What are you going to enquire about? Under these Ordinances which lay down that any man may be laid by his heels and kept in confinement for an

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indeterminate period, what will the enquiry say? You will simply say that all that you complain of is justified by the Ordinances. That will be the result of your enquiry. And if we could trust the executive Government, surely we would not have been here to oppose the executive Government when the executive Government go wrong.

Then it has been said, and I think very frankly, by the official apologists, that these Ordinances had to be brought into being because the emergency arose and it had to be provided against. Whatever may be the reason for bringing into existence these Ordinances, what reason have you given for not placing them before the Legislature? Read the preamble. It may be superfluous, but has it not enlightened you on this crucial point, that what we complain of is not the genesis of the Ordinances. What we complain of is that you have not placed them before the Legislature. That is our first recommendation. The only reply that you have in your minds is that if you were to place them before the Legislature, it would cause delay. Sir, every piece of legislation placed before a democratic body does involve delay. Can my Honourable friend conceive of a similar Ordinance issued by the executive in England and the head of the executive standing before the House of Commons and declaring to the assembled representatives of the people that they have issued the Ordinance because the House of Commons would take months to enact it into law? Sir, if such intrepid explanation were given in the House of Commons, I am sure within 24 hours the gentleman who gave that explanation would have to quit his official post. The fact that this is a minority Government supported by a minority of the Members of the House, but is given the extraordinary power of determining the policy of the majority of this House and controlling the majority of this House, is one of the reasons why there cannot be any co-operation in the sense you desire it between these two sides of the House. For the last 12 years we have been crying and crying ourselves hoarse and saying that the existence of an irresponsible executive is inconsistent with an elected Chamber which controls your policy. What reply have you to give? You have given no reply, and now after 12 years of patient waiting, when you find a political organisation, impatient of delay and anxious to hurry on your pace, embarks upon what is a perfectly constitutional method of public agitation, a peaceful civil disobedience movement, you wish to crush it now and for all time by confiscating all its property. Can any Member of this House, who has any duty towards his constituents, reconcile his public duty with the Ordinances that you are promulgating? Sir, even the nominated Members of this House like Mr. Sarma had the candour to admit that these Ordinances have led to abuses. What remedy are you providing against these abuses? My Honourable friend says that these Ordinances will be worked with moderation and under strict discipline. If that is so, let us give you and your agents a chance to make no mistakes. If you think that these Ordinances are necessary, then work them and do not evade them, but if they are not necessary, delete them from the Statute-book. You are on the horns of a terrible dilemma. You cannot in one breath say that you will work them with moderation and discretion.

Mr. President: May I ask the Honourable Member to say "they" instead of "you"?

Sir Hari Singh Gour: I meant it impersonally. In either case it means the same thing. They had an example the other day. You had an example the other day. The Honourable the Law Member or some other apologist of Government ejaculated an interruption and asked, "What is there in the Ordinances to show that the cult of Swadeshi has been punished?" My Honourable friend the Deputy President, who has lost his right of speech, told me of one instance in Coimbatore; (Interruptions) there is another in Bombay, where a shop stored with Swadeshi goods absolutely unconnected with the Congress movement was locked up by the police because it contained Swadeshi cloth. The Swadeshi exhibition in Madras was stopped. I ask my interruptor what influence he is going to exercise upon his colleagues to set right this flagrant example of the abuses of the processes of law.

Sir, I do not wish to tire this House but I wish to say one word in passing in reply to what has fallen from my friend Mr. Studd who said, "You are talking about fundamental rights. What about the fundamental rights of those peaceful citizens who are being terrorised by the Congress?" In the same breath he admitted that he did not exactly understand the constitutional objection I took, because he is not a lawyer. I entirely exonerate my friend if he does not understand the elementary meaning of the term "fundamental rights". The meaning of fundamental rights is that every citizen shall have recourse to the regularly constituted courts of law, that his person and property shall be immune from seizure by the executive, and that if he suffers from any wrong from the executive he has a right to go to the constituted courts for the purpose of punishing the man for false imprisonment or obtaining suitable damages. That is the meaning of fundamental rights which have for three centuries been established under the English constitution and it is because those rights are in consonance with the conscience of humanity that we want you to incorporate them in your provisions. Are you prepared to do that? You are not. That is the whole difference between you and me, and you want us to give unqualified approval to all the Ordinances that you have issued and may issue hereafter. I have done. I will ask Honourable Members to remember that they have a great duty to discharge on this memorable occasion. By their action the Government have made the Legislative Assembly impotent. Do not make it contemptible by your vote. (Cheers and ironical counter Cheers from the non-official and Government Benches.)

The Honourable Sir James Crerar: It is impossible for me at this late hour or within the brief period of time which can be allowed me to attempt even a brief survey of the course of the debate, and I therefore propose to content myself with touching upon only one or two of the salient points. As regards the character of the Resolution, I think that one of the most remarkable of the criticisms which were made upon the attitude of Government was that they should have regarded it as a vote of censure. In view of the totally different views expressed on that particular point by many Honourable Members opposite, I think I should be acquitted of all misapprehension of the real tenor of the Resolution and I shall refer to that later before I finally conclude. In the meantime I want to reply to one criticism made by the Honourable the Deputy President. He thought that my description of the Resolution was somewhat misconceived as it did not in fact contain any incompatible sentiments. Let me tell him, if I may, how I felt on that point. It appeared to me that parts of the Resolution adhere, if they adhere at all, by a very ingenious process of agglutination

[Sir James Crerar.]

rather than by any direct logical connection or coherence. I had this difficulty in particular, that in the preamble to the Resolution, the Assembly was invited to condemn acts of terrorism and violence and to disapprove of the no-rent campaign and similar activities. The Honourable the Leader of the Nationalist Party has just astounded me by saying that he regards the non-co-operation campaign as a strictly constitutional method of agitation. It puzzles me therefore to understand even at this late stage what precisely the Honourable Member meant by "other similar activities". I will restrict my remarks therefore to what I do understand in this part of the Resolution, and that is, terrorism and the no-rent campaign. The House is invited to condemn them. But what is the practical inference drawn from that condemnation? Is it that this House should support Government in the measures that it has taken to suppress those two campaigns which the House is called upon to condemn? No, Sir, there is no practical support for that proposition; and when the Honourable the Deputy President wonders where my difficulties are, I present him with one of them. In the second place, a great deal has been said, firstly, about the Ordinances themselves—the method of procedure by Ordinances—and secondly, about their administration. I have only a few words to say on those two points. It has been suggested that the mere making of an Ordinance, whatever may be the circumstances, however grave the emergency is, something in the nature of an outrage upon law, of an insult to the Legislature, of an injury to the public, I think, Sir, that that was the point of view taken by the Honourable and learned gentleman from Bengal, whose absence I particularly deplore, partly by reason of the nature of his contribution to this debate, and partly because he did me the honour of addressing me personally by name. The Honourable the Leader of the Independent Party in the course of his speech in a very emphatic, I might almost say in a triumphant tone, denied that he had made or promulgated any Ordinance. We know perfectly well, Sir, in whom the authority of making an Ordinance is vested. I could have said that myself. But, Sir, I would not have said anything which might suggest that I was capable of evading my share of the responsibility for the general policy and action of Government of which the making of an Ordinance is merely a particular, though it may be a very important, incident. (Hear, hear.) If the Honourable Member had been present, I should have invited him to recall that in the year 1924 an Ordinance was made for the province of Bengal. It was made at the very strong instance of the Government of which the Honourable and learned gentleman was a Member (Hear, hear), and I remember that a strongly-worded representation of the Government of Bengal was not acceded to except after very careful and mature deliberation which many people thought to have been wrong. (*Mr. B. Das*: "Are not Indian Executive Councillors mere toys?") With regard then to the fundamental impropriety or unconstitutionality of the making of an Ordinance in the face of a grave public emergency, I think my Honourable friend should have justified his position at that time or he ought to be here to justify it now. ("Hear, hear," from the Official Benches.)

Now I have one word more to say with regard to the manner in which these Ordinances have been administered. It is impossible to deal with the merits of particular instances of alleged improper action under the Ordinances. But to Honourable Members who have urged that point let me say this. It would be easy for me, if I thought it profitable, to recite

on the other side of the account a multitude of cases of the grossest acts of violence, of arson, of murder, of attempts at murder; but it would be entirely unprofitable for me to do so. I contend that these allegations and their proof or disproof are not really of fundamental relevance to the issue before the House. The issue before the House is, was Government right or was Government wrong in its general policy and in its general proceedings? The issue before the House is, was this Government faced by a very serious public emergency, which threatened the peace and the most vital interests in the country? The question is whether the action of Government is directed to that end. I maintain, Sir, that it is. The question is whether the Government are sincere and honest in their efforts to promote the political and the constitutional progress of this country: and if they are honest and sincere in those efforts, as a vow they are, ould they possibly have justified themselves if they had not taken the executive action under which alone that policy could be probably pursued? (Hear, hear.) That, Sir, I contend is the real issue before the House. That is the vote of censure which Honourable Members opposite have sought to pass upon Government, and I leave the verdict to the unprejudiced judgment of this House. (Loud Applause.)

Mr. President: The question is:

"Whereas this Assembly has reason to protest against the manner in which the Ordinances promulgated by the Government of India have been worked in various parts of the country by the agents of Government, and in particular, considers that the action taken against Mahatma Gandhi without affording him the opportunity he sought for an interview with His Excellency the Viceroy was unjustified, that the deportation of Khan Abdul Ghaffar Khan, and the arrest of Mr. Sen Gupta before he even landed on Indian soil were against all canons of justice and fairplay and ignored all elementary humane ideas and that the punishment meted out to ladies including their classification as prisoners is to the last degree exasperating to public opinion;

And whereas this Assembly disapproves of the fact that various Ordinances have been issued immediately after the conclusion of the last sitting of the Legislative Assembly;

And, whereas, this Assembly condemns acts of terrorism and violence and disapproves of the policy of a no-rent campaign and similar activities and is convinced that it is the earnest duty of all patriotic citizens to join in the constructive task of expediting the inauguration of a new constitution ensuring lasting peace in the country;

This Assembly recommends to the Governor General in Council:

(1) that he should place before the Assembly for its consideration such emergency Bills in substitution of the Ordinances as he may consider reasonable and necessary in order to enable this House to function effectively as intended by the Government of India Act;

(2) that in view of the grave happenings in the North West Frontier Province, a committee elected by the non-official members of the Assembly be forthwith appointed to enquire into the same, including the reported atrocities committed therein; and

(3) that he should secure the co-operation of all organisations in the country in the inauguration of a new constitution for India."

Mr. Abdul Matin Chaudhury: On a point of order, Sir. Certain allegations have been made against the Leader of the Independent Party by the Honourable the Home Member. I want to ask whether he will be given an opportunity to clear his position.

Mr. President: The Honourable the Leader of the Independent Party was not present at the time.

Mr. K. C. Neogy: Cannot he rise to make a personal explanation if he knows what was said about him?

Mr. President: I will allow him to make a personal explanation at this stage only as a special case.

Sir Abdur Rahim: I did not hear the exact allegations.

Mr. President: That is exactly what I said.

Sir Abdur Rahim: I understand that when I was in the Government of Bengal as a Member of the Executive Council some Ordinance was passed, and it was stated that I had issued a certain Ordinance. If the Honourable the Home Member wanted to know what I did personally, he ought to have looked into the records of the case. (Hear, hear.) (*Some Honourable Members*: "Produce the records.")

Sir Abdullah Suhrawardy: But we know that you did not resign. (Laughter.)

Mr. President: Order, order. The question is that the foregoing Resolution be adopted.

The Assembly divided:

AYES—44.

Abdul Matin Chaudhury, Mr.
Abdur Rahim, Sir.
Aggarwal, Mr. Jagan Nath.
Azhar Ali, Mr. Muhammad.
Badi-uz-Zaman, Maulvi.
Bhuput Sing, Mr.
Chetty, Mr. R. K. Shanmukham.
Das, Mr. B.
Dudhoria, Mr. Nabakumar Sing.
Dutt, Mr. Amar Nath.
Gour, Sir Hari Singh.
Gunjal, Mr. N. R.
Isra, Chaudhri.
Jadhav, Mr. B. V.
Jehangir, Sir Cowasji.
Jha, Pandit Ram Krishna.
Jog, Mr. S. G.
Joshi, Mr. N. M.
Krishnamachariar, Raja Bahadur G.
Lahiri Chaudhury, Mr. D. K.
Lalchand Navalrai, Mr.
Mitra, Mr. S. C.
Mudaliar, Diwan Bahadur A. Ramaswami.
Murtuza Saheb Bahadur, Maulvi Sayyid.
Neogy, Mr. K. C.
Parma Nand, Bhai.
Phookun, Mr. T. R.
Puri, Mr. B. 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.
Singh, Mr. Gaya Prasad.
Sitaramaraju, Mr. B.
Sohan Singh, Sirdar.
Sukhraj Rai, Rai Bahadur.
Uppi Saheb Bahadur, Mr.
Ziauddin Ahmad, Dr.

NOES—62.

Abdul Qaiyum, Nawab Sir Sahibzada.
Acott, Mr. A. S. V.
Allah Baksh Khan Tiwana, Khan Bahadur Malik.
Allison, Mr. F. W.
Anklesaria, Mr. N. N.
Anwar-ul-Azim, Mr. Muhammad.
Azizuddin Ahmad Bilgrami, Qazi.
Bajpai, Mr. R. S.
Banerji, Mr. Rajnarayan.
Bhargava, Rai Bahadur Pandit T. N.
Bhore, The Honourable Sir Joseph.
Brij Kishore, Rai Bahadur Lala.
Brown, Mr. R. R.
Clow, Mr. A. G.
Cocke, Sir Hugh.
Cosgrave, Mr. W. A.
Crerar, The Honourable Sir James.
Dalal, Dr. R. D.
DeSouza, Dr. F. X.
Fazal Haq Piracha, Shaikh.
Fox, Mr. H. B.
French, Mr. J. C.
Ghuznavi, Mr. A. H.
Gidney, Lieut.-Colonel Sir Henry.
Graham, Sir Lancelot.
Gwynne, Mr. C. W.
Heathcote, Mr. L. V.
Howell, Sir Evelyn.
Ishwarsingji, Nawab Naharsingji.
Ismail Ali Khan, Kunwar Hafee.
Jawahar Singh, Sardar Bahadur Sardar.
Lal Chand, Hony. Captain Rao Bahadur Chaudhri.
Macqueen, Mr. P.
Moore, Mr. Arthur.
Morgan, Mr. G.
Mujumdar, Sardar G. N.
Mukherjee, Rai Bahadur S. C.
Noyce, Sir Frank.
Pandit, Rao Bahadur S. R.
Parsons, Sir Alan.
Rafiuddin Ahmad, Khan Bahadur Maulvi.
Raghubir Singh, Kunwar.
Rainy, The Honourable Sir George.
Rajah, Rao Bahadur M. C.
Rajan Bakhsh Shah, Khan Bahadur Makhdum Syed.
Rama Rao, Diwan Bahadur U.
Ryan, Mr. T.
Sahi, Mr. Ram Prashad Narayan.
Santos, Mr. S.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Scott, Mr. J. Ramsay.
Seamen, Mr. C. K.
Sher Muhammad Khan Gakhar, Captain.
Studd, Mr. E.
Suhrawardy, Sir Abdullah.
Sykes, Mr. E. F.
Wajihuddin, Khan Bahadur Haji.
Yakub, Sir Muhammad.
Yamin Khan, Mr. Muhammad.
Young, Mr. G. M.
Zulfiqar Ali Khan, Sir.

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 3rd February, 1932.

LEGISLATIVE ASSEMBLY.

Wednesday, 3rd February, 1932.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President in the Chair.

MEMBER SWORN:

Sir Charles Edgar Wood, Kt., M.L.A. (Madras: European).

QUESTIONS AND ANSWERS.

INCOME FROM INCREASED INCOME-TAX ON SALARIES OF GOVERNMENT SERVANTS.

80. ***Mr. Goswami M. R. Puri:** (*a*) Will Government be pleased to state what would be the total income on account of the proposed surcharge only on income-tax on the salaries of Government servants during the current year?

(*b*) Will Government be pleased to state what would be the total earnings on account of the proposed enhanced income-tax from the salaries of the Government servants during the current year?

The Honourable Sir George Schuster: (*a*) I do not understand the expression "proposed surcharge" but if the Honourable Member refers to the surcharge imposed by the last Finance Bill the answer is Rs. 22.31 lakhs.

(*b*) I regret that I cannot understand this part of the question at all but if the Honourable Member will speak to me I will endeavour to give him the information which he desires.

WITHDRAWALS FROM THE GENERAL PROVIDENT FUND FOR INVESTMENT IN STERLING INSURANCE POLICIES.

81. ***Mr. S. C. Mitra** (on behalf of Mr. A. Das): (*a*) Will Government be pleased to furnish the following information:

(*i*) the amounts withdrawn for the year ending 31st December, 1931, from the General Provident Fund (Civil) per Presidency, per Province and from Burma; by each of the following communities, *i.e.*, Europeans, Anglo-Indians and Indians, and invested in single premium sterling policies, or in sterling policies on which the premiums are payable *by instalments*; and

(*ii*) the names of insurance offices and the amounts withdrawn from the General Provident Fund (Civil), throughout India and Burma and paid to each insurance office for such policies in sterling which were assigned to the Secretary of State for India?

(*b*) Are Government aware of the efforts of a retired Indian Civil Service officer from the Punjab, who issues periodically pamphlets and advice to the Members of the Indian Imperial Services to invest in such policies in sterling to take their money out of India?

(*c*) Are Government aware of the article contributed by Mr. J. F. Darling, C.B.E. (a distinguished Banker and a Director of one of the "Big Five Banks in London", *viz.*, Midland Bank) to the *Daily Mail*, dated 9th December, 1931?

The Honourable Sir George Schuster (*a*) (i) Information so far as it is available in accounts offices is being obtained and a statement will be communicated to the Honourable Member.

(ii) I cannot undertake to furnish details of the business done by individual Insurance Offices in these policies.

(*b*) It is understood that pamphlets dealing with various means of converting rupee Provident Fund deposits into sterling insurance policies have been issued by certain insurance brokers in the ordinary course of their business practice.

(*c*) Government have not seen the article in question.

TRAINING OF BRITISH SOLDIERS IN HANDICRAFTS IN INDIA.

82. ***Mr. S. C. Mitra** (on behalf of Mr. A. Das): (*a*) Is it the policy of the Military Department of the Government of India with regard to British privates and others below the rank of an officer to train them before their discharge and before leaving India for England, in such handicrafts as carpentry, motor engineering, etc., so that on their arrival in England they would get employment and not be on the "unemployed list"?

(*b*) How many privates and other soldiers have been trained in India in the above handicrafts during the year ended 31st December, 1931?

(*c*) What is the total cost of their training and tools during the year ended 31st December, 1931, and was this sum paid by the Government of India or the British Government?

Mr. G. M. Young: (*a*) Selected soldiers of good character who are about to leave the colours are trained in certain trades in order to assist them to obtain employment on return to civil life.

(*b*) About 1,200.

(*c*) The cost of the training and of tools is paid by the men themselves.

TRAINING AND DISCHARGE OF CERTAIN SOLDIERS.

83. ***Mr. S. C. Mitra** (on behalf of Mr. A. Das): (*a*) Is it a fact that six privates belonging to the Buffs stationed in Rangoon were trained in the Government Carpentry School at Allahabad and after their training sent to England some time during November or December, 1931?

(*b*) Is it a fact that after their training these six privates had to go back from Allahabad *via* Calcutta to Rangoon, give up their arms, get their papers of discharge and return all the way from Rangoon after staying only four days there, to Allahabad *via* Calcutta and from Allahabad proceeded to Bombay to embark for England?

(*c*) What was the total cost of fares by rail, steamer, salaries, travelling allowance for these six privates from Allahabad to Rangoon and back to Allahabad as above and thence to Bombay?

(*d*) What amount was paid for their training to the Government Carpentry School at Allahabad and for tools for their use when under training?

(*e*) Is it the Indian Government or the British Government that bore this expenditure for their training in India to fit them for employment in England?

(*f*) Could not all this expenditure have been avoided by the deposit of their arms in the Arsenal at Allahabad and a few annas in postage stamps for any papers to be got from their regiment in Rangoon?

Mr. G. M. Young: (*a*) Yes. The soldiers were due for discharge from the colours on their return to England.

(*b*) and (*c*). The information has been called for and will be furnished to the Honourable Member on receipt.

(*d*) *Nil.*

(*e*) The men pay the cost themselves.

(*f*) I am obliged to the Honourable Member for the suggestion, and will gladly consider it.

ADMISSION OF INDIANS TO THE ARMY IN INDIA RESERVE OF OFFICERS.

84. ***Kunwar Hajee Ismail Ali Khan:** (*a*) Will Government kindly inform the Assembly whether Indians are taken in the Army in India Reserve of Officers, without previous military experience?

(*b*) Is it a fact that some competent Indians were refused commissions in the Army in India Reserve of Officers mainly on the ground that they had no previous military experience while Anglo-Indians were exempted from it?

Mr. G. M. Young: (*a*) and (*b*). Suitable Indian candidates, without previous military experience, are eligible for, and have been admitted into, the Reserve in certain categories, such as Recruiting, Medical Dental, and Veterinary. In other categories previous military experience is essential. This rule applies equally to Anglo-Indian candidates.

INSANITARY CONDITIONS IN THE HEDJAZ.

85. ***Kunwar Hajee Ismail Ali Khan:** (*a*) Are Government aware that the present sanitary condition of the Hedjaz is not satisfactory on account of the recent strike in the Public Health staff of the Hedjaz Government?

(*b*) If the answer to above is in the affirmative, do Government propose to send some medical mission with the Indian pilgrims during the Haj season?

Sir Evelyn Howell: (*a*) No, Sir. The Government of India are satisfied that reports to this effect which have appeared in the press are greatly exaggerated.

(*b*) Does not arise.

Mr. Muhammad Anwar-ul-Azim: Will Government kindly tell us whether the Egyptian Government send every year at their own expense a medical mission to look after the pilgrims?

Sir Evelyn Howell: I understand they always do.

Dr. Ziauddin Ahmad: What is the source of Government's information that the conditions are not bad?

Sir Evelyn Howell: His Majesty's Minister at Jeddah. He said that he saw no cause for unusual anxiety and he gave certain information about the number of doctors and so forth in the Hejaz.

Dr. Ziauddin Ahmad: Did Government ask him to report on this matter?

Sir Evelyn Howell: Yes, Sir.

TRANSFER OF APPEALS FROM ONE INCOME-TAX COMMISSIONER TO ANOTHER.

86. ***Sardar Sant Singh** (on behalf of Lala Hari Raj Swarup): (*a*) Is it a fact that the present Income-tax Act does not give power to the Commissioner of Income-tax or the Central Board of Revenue to transfer appeals from the jurisdiction of one Assistant Income-tax Commissioner to that of another Assistant Income-tax Commissioner?

(*b*) If the answer to part (*a*) be in the negative, will Government be pleased to quote the sections giving such power?

(*c*) If the answer to part (*a*) be in the affirmative, how do Government propose to remove this anomaly in order to bring the Income-tax Act into consonance with other Acts?

The Honourable Sir George Schuster: (*a*) Yes.

(*b*) Does not arise.

(*c*) The Government are considering legislation on this subject.

REVISION OF SCALES OF PAY OF GOVERNMENT SERVANTS.

87. ***Sardar Sant Singh** (on behalf of Lala Hari Raj Swarup): (*a*) Will Government be pleased to state if they have revised the permanent scale of pay of various services under their control? If not, why not?

(*b*) Are Government in a position to state what Provincial Governments have revised the permanent scales of pay of their respective services?

The Honourable Sir George Schuster: (*a*) Government are at present engaged in formulating revised scales of pay for future entrants to the services under their control. The general lines on which revised scales should be framed have been indicated to Departments and are under their consideration. Methods of fixing the provisional pay of new recruits pending settlement of permanent scales are also under consideration.

(*b*) Full information is not at present available.

EXPEDITING THE ESTABLISHMENT OF THE NEW CONSTITUTION IN INDIA.

88. ***Sardar Sant Singh** (on behalf of Lala Hari Raj Swarup): (*a*) Will Government be pleased to state when the new constitution will come into force in this country?

(*b*) What steps do Government propose to take in order to expedite the establishment of the new constitution in India?

The Honourable Sir George Rainy: (*a*) and (*b*). It is not possible at present to say by what date the new constitution will be introduced, but I invite the Honourable Member's attention to the Prime Minister's statement of the 1st December, 1931, at the conclusion of the Round Table Conference. The arrangements therein indicated to carry forward the work of constitutional reform are being actively pursued.

ARRESTS IN THE NORTH-WEST FRONTIER PROVINCE.

89. ***Dr. Ziauddin Ahmad:** (*a*) What is the total number of persons in each sub-division of each district of the North-West Frontier Province arrested since 1st December, 1931?

(*b*) What is the total number of persons now in each jail of the North-West Frontier Province?

(*c*) How many persons arrested in the North-West Frontier Province were sent to jails outside the North-West Frontier Province?

(*d*) At what places have Government kept Khan Abdul-Ghafar Khan and Kazi Atta-ullah, Pleader, Mardan?

Sir Evelyn Howell: (*a*) and (*b*). A statement of figures is laid on the table. It includes all arrests, not merely those made in pursuance of the measures taken to combat civil disobedience.

(*c*) Four.

(*d*) Government do not consider that it would be in the public interest to supply the information.

(*a*) *Peshawar District*:

Peshawar City	1,096
Sadr Sub-division	413
Nowshera Sub-division	203
Mardan Sub-division	491
Charsadda Sub-division	843
Kohat District:	
Kohat	1,160
Hangu	97
Bannu District	1,136
Dera Ismail Khan District:	
Dera Ismail Khan and Kulachi	40
Tank	279
Hazara District:	
Haripur	69
Mansehra	113
Abbottabad	110

(*b*) Peshawar Central Jail	2,434
Dera Ismail Khan Central Jail	1,790
Kohat Jail	388
Abbottabad Jail	218
Bannu Jail	431
Haripur Central Jail	4,422
Mardan Judicial Lock-up	177
Charsadda Judicial Lock-up	198

Dr. Ziauddin Ahmad: Did the Honourable Member give separately the figures of the persons who belonged to the unlawful assemblies and those who did not?

Sir Evelyn Howell: Only the totals are given.

Mr. Lalchand Navalrai: With reference to the answer to clause (*d*), have Government any objection to stating whether they are detained in British India or outside British India?

Sir Evelyn Howell: They are all in British India.

Mr. Gaya Prasad Singh: Is it not a fact that Khan Abdul Ghaffar Khan is in Hazaribagh Jail in my province? (Laughter.)

(No answer was given.)

PRISONERS EXPOSED TO THE COLD IN THE NORTH-WEST FRONTIER PROVINCE.

90. ***Dr. Ziauddin Ahmad:** (*a*) Is it not a fact that on account of want of accommodation in regular jails in the North-West Frontier Province, persons are kept in open enclosures?

(*b*) How many persons and in how many places are they kept in open enclosures?

(*c*) What is the minimum temperature at night in the North-West Frontier Province, at Bannu and Peshawar?

(*d*) Is it not a fact that the persons are given only one blanket?

Sir Evelyn Howell: (*a*) Prisoners have been in some cases detained in internment camps pending transfer to Haripur Jail. Shelter is provided in these camps.

(*b*) It is not possible to give the number of persons, as such enclosures are clearing stations for Haripur Central Jail and persons are not detained in them longer than is necessary for their evacuation. Such enclosures exist at Bannu, Kohat and Dera Ismail Khan.

(*c*) The minimum average temperature for December in Bannu and Peshawar is 43 degrees.

(*d*) Prisoners are in all cases now provided with adequate bedding although there was some dislocation during the first few days owing to the large influx of prisoners.

Dr. Ziauddin Ahmad: Is it not a fact that Government had planned beforehand that arrests would be made on a particular day? Then why were not blankets provided in time?

Sir Evelyn Howell: No, Sir. The measure was thrust upon Government at a moment's notice.

Dr. Ziauddin Ahmad: Is it not a fact that the persons were kept in the open from the 26th December to 8th January and when they were all soaked at night on account of rain, tents were provided afterwards?

Sir Evelyn Howell: I have no information on the point but I will certainly ascertain.

INSUFFICIENT FOOD AND BLANKETS FOR PRISONERS IN THE NORTH-WEST FRONTIER PROVINCE.

91. ***Dr. Ziauddin Ahmad:** (*a*) What is the quantity of flour sanctioned for each prisoner in the North-West Frontier Province?

(*b*) Are Government aware that most of the prisoners are given only one thin piece of bread at each meal?

(*c*) Are Government aware that people of North-West Frontier Province can not live on one thin piece of bread and covered with one blanket living under the sky?

Sir Evelyn Howell: (*a*) 10 chattacks and 8 chattacks as prescribed in paragraph 920 of the Punjab Jail Manual.

(*b*) All prisoners receive full jail rations according to the scale prescribed in paragraph 920 of the Punjab Jail Manual, although there was some dislocation in the arrangements in the beginning for the same reason as given in answer to question No. 90(*d*).

(*c*) The Honourable Member's attention is invited to the reply given to parts (*a*), (*b*) and (*d*) of question No. 90.

Dr. Ziauddin Ahmad: Is there any machinery to ensure that the rations granted by the Government are actually given to the prisoners?

Sir Evelyn Howell: Yes, Sir; it is the duty of the Superintendent to see that it is.

Dr. Ziauddin Ahmad: Has it not often been found by experience that Superintendents do not discharge their duties properly? Is there any supervision over them?

Sir Evelyn Howell: Yes; of course there are arrangements for supervision.

RUMOURED INTENTION TO USE HOUNDS TO DISPERSE CROWDS IN THE NORTH-WEST FRONTIER PROVINCE.

92. ***Dr. Ziauddin Ahmad:** Is there any truth in the rumour that the Government of the North-West Frontier Province are contemplating to use hounds for dispersing crowds?

Sir Evelyn Howell: No, Sir. There is no truth in the rumour.

COMPOSITION OF THE INDIAN IMMIGRATION COMMITTEE IN THE MALAY PENINSULA.

93. *Mr. **Nabakumar Sing Dudhoria:** Will Government be pleased to state:

(*a*) the number of members that compose the Indian Immigration Committee in the Malay Peninsula;

(*b*) (1) the number of European;
(2) the number of Malayan; and
(3) the number of Indian; } representatives on that committee;

(*c*) the status and position of the Indian members; and

(*d*) the number of officials and non-officials?

Sir Frank Noyce: (*a*) 16.

(*b*) (1) 14.

(2) *Nil.*

(3) 2.

(*c*) One of the Indian members is a retired Court Interpreter at Kaula Lumpur, Federated Malay States, and the other is the Foreman of the Penang Gazette Press at Penang, Straits Settlements. Both are Justices of the Peace.

(*d*) 5 officials and 11 non-officials.

DRINK EVIL IN MALAYA.

94. *Mr. **Nabakumar Sing Dudhoria:** Will Government be pleased to state:

(*a*) whether they are aware that the toddy-imbibing vice is increasing at an abnormal rate among the Indian immigrants in Malaya;

(*b*) if the answer is in affirmative, the step or steps that they know the Malay Government has taken to put down that evil;

(*c*) the step or steps which they propose to adopt from this country in order to cope with that growing evil among a section of Indians abroad; and

(*d*) whether they are aware that numerous foreign liquor shops have recently been opened near Indian labour colonies in Malaya?

Sir Frank Noyce: (*a*) Government have no information. For comparative figures of the number of toddy shops and the amount of revenue derived therefrom for the years 1929 and 1930, I would refer the Honourable Member to paragraph 19 of the report of the Agent of the Government of India in Malaya for 1930, a copy of which is available in the Library of the House.

(*b*) As stated in the reply given on September 17, 1931, to part (*e*) of Mr. Bhuput Sing's question No. 469, the Malayan Governments have adopted a common policy with a view to restricting the number of toddy shops and limiting the hours of sale.

(*c*) The Government of India keep in close touch through their Agent with all matters affecting the welfare of Indian labourers in Malaya and make representation to the Colonial authorities whenever necessary.

(*d*) Government have no information but will make enquiries.

INDIANS REPATRIATED FROM MALAYA.

95. *Mr. **Nabakumar Sing Dudhoria:** Will Government be pleased to state:

(*a*) the number of Indians repatriated from Malaya at the expense of the local Indian Immigration Committee since June, 1930 up to date; and

(*b*) the causes which necessitated the repatriation of Indians from that colony of late?

Sir Frank Noyce: (*a*) The number of Indian labourers and their dependents who were repatriated from Malaya between the 1st June, 1930, and the 31st December, 1931, was 1,30,781. The cost of repatriation is borne wholly or in part by the Malayan Government, the Indian Immigration Fund and the employers of labour, according to the circumstances of each case.

(*b*) The main causes are unemployment owing to depression in the rubber and tin industries and also, in some cases, to unwillingness to accept work on reduced wages.

ACUTE FINANCIAL CONDITION OF INDIAN LABOURERS IN SOUTH AFRICA AND MALAYA.

96. *Mr. **Nabakumar Sing Dudhoria:** Will Government be pleased to state:

(*a*) whether they are aware that most acute financial conditions are prevailing among the Indian labourers in South Africa and Malaya due to retrenchment, consequent upon the slump in local trade and industry;

(*b*) if the answer is in the affirmative, whether they propose to take effective steps to see that no Indian labourer leaves his home in India without a guarantee of a definite minimum wage which must not be altered from time to time?

Sir Frank Noyce: (*a*) Yes.

(*b*) Recruitment of Indian labourers for Malaya has already been stopped and only such persons are assisted to emigrate as have left their families in that country. As regards South Africa, emigration for purpose of unskilled work is not permissible under the Indian Emigration Act.

DEPUTATIONS AND DELEGATIONS TO SOUTH AFRICA.

97. *Mr. **Nabakumar Sing Dudhoria:** Will Government be pleased to state:

(*a*) the names of different deputations and delegations that visited South Africa on their behalf during the last thirty years;

(*b*) the main purpose or purposes for which each visited that country;

(*c*) the achievements made by each in Indian's interests; and

(*d*) the total amount that those deputations and delegations have cost the Indian exchequer up to date?

Sir Frank Noyce: (*a*), (*b*) and (*c*). I would refer the Honourable Member to the reply given to Mr. Bhuput Sing's question No. 597 on the 21st September last. Only one delegation other than those mentioned in the reply to that question has been sent to South Africa during the last thirty years, and that is the delegation under the leadership of Sir Fazl-i-Husain which is now engaged in conference with the representatives of the Union Government at Cape Town. The subjects to be discussed at this Conference are (1) the Cape Town Agreement of 1927 in the light of the experience gained, and (2) the position in the Transvaal with which the Transvaal Asiatic Tenure (Amendment) Bill was intended to deal.

(*d*) The only information which is readily available is that an expenditure of Rs. 57,000 was incurred in 1925-26 in connection with the deputation led by Sir George Paddison. The estimated cost of the delegation led by Sir Muhammad Habibullah in 1926-27 was Rs. 1,17,000 and the estimated cost of the present delegation is Rs. 80,000. I trust that the Honourable Member will not press for information regarding actual expenditure as its compilation will involve considerable expenditure of time and trouble.

Dr. Ziauddin Ahmad: Has any good come out of these delegations?

Sir Frank Noyce: Yes, Sir.

Dr. Ziauddin Ahmad: Can the Honourable Member mention some of them?

Sir Frank Noyce: I would mention the existing Cape Town Agreement.

Dr. Ziauddin Ahmad: Is that all? The agreement that has been obtained?

Sir Frank Noyce: I hardly think, Sir, that I am called upon to enter into a debate on the subject of the results of past delegations.

RESULT OF THE RECENT INDIAN DELEGATION TO SOUTH AFRICA.

98. ***Mr. Nabakumar Sing Dudhoria:** Will Government be pleased to state:

(*a*) the net result affecting Indian interests achieved by the recent Indian delegation to South Africa led by the Honourable Sir Fazl-i-Husain; and

(*b*) the subject or subjects that come within the purview of discussion between that Indian delegation and the South African Government?

Sir Frank Noyce: (*a*) The Conference between the representatives of the Government of India and the Union Government has not yet concluded its deliberations.

(*b*) The information is contained in the reply which I have just given to the immediately preceding question.

PURCHASE OF *Lathies* BY THE GOVERNMENT OF INDIA.

99. ***Mr. Nabakumar Sing Dudhoria:** Will Government be pleased to state:

(*a*) whether it is a fact that the Central Government through their Stores Purchase Department have purchased a vast quantity of *lathies*;

(*b*) if the answer is in affirmative, the total amount spent on such a transaction;

(*c*) the number of *lathies* purchased; and

(*d*) whether the purchase of *lathies* is strictly for imperial interests?

The Honourable Sir Joseph Bhore: No.

(*b*), (*c*) and (*d*). Do not arise.

STATUS OF INDIA AS A MEMBER OF THE LEAGUE OF NATIONS.

100. ***Mr. Nabakumar Sing Dudhoria:** Will Government be pleased to state:

(*a*) whether it is in the capacity of a dominion or dependency that India is a free and independent member of the League of Nations; and

(*b*) if the answer be that she is there as a dependency of England, whether there is any other country which is a dependency of another country but is still an independent member of the League?

Sir Lancelot Graham: (*a*) The Honourable Member is referred to paragraph 1 of article 1 of the Covenant of the League from which he will observe that India is an original member in the capacity neither of a Dominion nor of a dependency but in the capacity of a signatory named in the annex to the Covenant.

(*b*) Does not arise.

Sir Hari Singh Gour: Is it not a fact that under the Covenant of the League of Nations only self-governing Dominions can become members of the League, and for that purpose membership of the League is restricted to the self-governing Dominions?

Sir Lancelot Graham: I would suggest that the Honourable Member should read the Covenant.

Sir Hari Singh Gour: It is because I have read the Covenant that I have asked the question.

Sir Lancelot Graham: I would then suggest that he should read and understand it.

Sir Hari Singh Gour: Has the Honourable Member read and understood it?

Sir Lancelot Graham: Yes.

Dr. Ziauddin Ahmad: Is it not a fact that India was allowed an independent position on account of the money which she contributed—for financial reasons only?

Sir Lancelot Graham: I have already given the reason: India signed the Treaty.

STATE OF CENTRAL REVENUES.

101. ***Mr. Nabakumar Sing Dudhoria:** Will Government be pleased to state:

(*a*) whether they apprehend any deficit in the Central revenues in the forthcoming Budget;

(*b*) if the answer is in affirmative, the probable amount of such deficit;

(*c*) how such a deficit is sought to be met; and

(*d*) whether they contemplate a Finance Bill after the presentation of the annual Budget?

The Honourable Sir George Schuster: I would ask the Honourable Member to wait until I make the usual statement through my Budget speech. In the meanwhile I would refer him to the speech made by His Excellency the Governor General in this Assembly on January, 25th.

CONVICTIONS UNDER THE NEW ORDINANCES.

102. ***Rai Bahadur Sukhraj Rai:** (*a*) Will Government be pleased to state the total number of persons convicted in the present civil disobedience movement under the different Ordinances in various parts of India?

(*b*) Is there any truth in the rumour that the leaders will be deported to an island called Korea Morea?

(*c*) How long do Government propose to keep these persons in jail? Will they be all released as soon as the British committees arrive in India to ensure a calm atmosphere for the discussion of constitutional reforms?

(*d*) Are Government aware of the effect on commerce and industry of this repressive policy?

The Honourable Sir James Crerar: (*a*) The Government of India have arranged with Local Governments for the supply of monthly figures, and those for the month of January will be available about the 15th of February. I shall then communicate them to the Honourable Member.

(*b*) No.

(*c*) The persons concerned will be detained in jail in the ordinary course for the period of their sentences subject to such remissions as may be earned by good conduct in accordance with the Remission Rules. The second part of the question does not arise.

(*d*) The renewal of the civil disobedience movement, and not the steps or measures taken by Government to deal with it, must be held responsible for any adverse effect there may be on commerce and industry.

Mr. Gaya Prasad Singh: Do I understand the Honourable Member to say that the figures will be placed on the table?

The Honourable Sir James Crerar: I have no objection.

PRESENT REPRESSIVE POLICY OF THE GOVERNMENT.

103. ***Rai Bahadur Sukhraj Rai:** (*a*) Will Government be pleased to state whether their attention has been drawn to the news published in certain newspapers sent from their Delhi correspondent that the present repressive policy was decided upon by them under instructions from His Majesty's Government so as to smooth the way for the introduction of the new constitution in India, as otherwise the Congress leaders would have made bigger demands and would not have been satisfied with what would be given?

(*b*) If so, is the information correct? If it is not correct, what steps have been taken against the said correspondent for circulation of false reports?

The Honourable Sir James Crerar: (*a*) I have been unable to trace any such statement, which, if it has been made, is entirely without foundation.

(*b*) The question does not arise.

NON-ATTENDANCE AT A DURBAR IN THE NORTH-WEST FRONTIER PROVINCE.

104. ***Rai Bahadur Sukhraj Rai:** Is it illegal and punishable if any body decline to attend the official durbar in the North-West Frontier Province on grounds of ill-health?

Sir Evelyn Howell: No, Sir.

RESOLUTIONS ADOPTED BY THE LEGISLATIVE ASSEMBLY IN 1931.

105. ***Mr. Rahimtoola M. Chinoy:** Will Government be pleased to state what action they have taken or intend to take on each of the resolutions adopted by the Legislative Assembly during 1931?

The Honourable Sir George Rainy: The information is being collected and will be laid on the table in due course.

AMENDMENTS OF ACTS AFFECTING WORKMEN.

106. ***Mr. Rahimtoola M. Chinoy:** Will Government be pleased to state whether they intend to amend the Workmen's Compensation Act, the Trade Unions Act and the Trade Disputes Act, as recommended by the Royal Commission on Labour in India, in their report?

The Honourable Sir Joseph Bhore: I hope to place before the House during the present session Bills for the amendment of the Workmen's Compensation Act and the Trade Disputes Act. The proposals of the Royal Commission on Labour relating to the amendment of the Trade Unions Act are under examination.

SEPARATION OF SIND FROM BOMBAY.

107. ***Mr. Rahimtoola M. Chinoy:** Will Government be pleased to state what progress has been made in the consideration and solution of the question regarding the separation of Sind?

The Honourable Sir George Rainy: I would refer the Honourable Member to the announcement made on this subject by His Excellency the Viceroy in this House on Monday last.

RETRENCHMENT AFFECTED IN VARIOUS DEPARTMENTS.

108. ***Mr. Rahimtoola M. Chinoy:** Will Government be pleased to lay on the table of the House a statement showing the retrenchment effected up to date in each of the departments?

The Honourable Sir George Schuster: I would invite the Honourable Member's attention to the memoranda which were circulated to the Members of this House on the 4th November, 1931, regarding the action taken on the recommendations of the various Retrenchment Sub-Committees. Further statements giving more up-to-date information will be laid before this House in due course in connection with the Demands for Grants for the next year.

INDIAN REPRESENTATION IN THE SECRETARIAT OF THE LEAGUE OF NATIONS.

109. ***Mr. Rahimtoola M. Chinoy:** (*a*) Will Government be pleased to state whether it is a fact that the nationals of India are inadequately represented in the Secretariat of the League of Nations and, if so, what steps they have taken to secure adequate representation for them?

(*b*) How many Muslims are there among the Indians employed in the Secretariat of the League of Nations?

Sir Lancelot Graham: (*a*) A statement showing the extent of India's representation in the Secretariat is laid on the table. Government must leave the Honourable Member to form his own opinion as to its adequacy. For the second part of the question I would refer the Honourable Member to the reply in the Council of State to part (*b*) of question No. 37 of the 4th March, 1929.

(*b*) So far as the Government of India are aware there are no Muslims employed in the League Secretariat.

Statement showing the number of Indians employed in the League of Nations, their names, their designations, their duties, and the salary paid to each.

Name.	Designation.	Duties.	Salary.
	League Secretariat.		
Mr. J. Dalal .	Member of Section .	Legal Section	Pay of post 13,700—800—19,000 Swiss francs. Present pay understood to be 13,700 Swiss francs.
Mr. S. M. Dhume .	Do.	Economic and Financial Section.	Pay of post 13,700—800—19,000 Swiss francs. Present pay unknown.

Name.	Designation.	Duties.	Salary.
	League Secretariat—contd.		
Mr. A. C. Chatterjee	Member of Section .	Information Section	Pay of post 13,700—800—19,000 Swiss francs. Present pay unknown.
Mr. S. N. Ghose .	Junior Assistant .	Information Section	Pay of post 7,500—200—9,500 Swiss francs. Present pay unknown.
	International Labour Office.		
Mr. K. Kuriyan .	Member of Section .	Section A of the Diplomatic Division dealing with Ratifications and Application, etc., of Conventions.	Pay of post 13,700—800—19,000 Swiss francs. Present pay unknown.
Mr. R. K. Das .	Member of Section Class A.	Section C of the Diplomatic Division dealing with Labour in Colonies, Protectorates, etc.	Pay of post 19,000—800—28,000 Swiss francs. Present pay understood to be 20,600 Swiss francs.
Dr. P. Pillai . .	Is at present the representative of the International Labour Office and Director of its Indian Branch with rank superior to that of Chief of Section at Geneva. Understood to hold lien on post of Member of Section.		Pay of post temporarily fixed at 24,000 Swiss francs.

NOTE.—In addition Dr. Pillai is authorised to engage four office Assistants in India for the purpose of his work.

Dr. Ziauddin Ahmad: Is it not a fact, Sir, that the representation of India in the Secretariat of the League of Nations is not proportionate to the contribution which India makes?

Sir Lancelot Graham: Does the Honourable Member say that that should be the state of affairs?

Dr. Ziauddin Ahmad: I first want to know the facts, and afterwards I shall ask supplementary questions.

Sir Lancelot Graham: If the Honourable Member will wait for a later answer, I think he will get the facts. I am not quite sure, but I think he will be satisfied.

Dr. Ziauddin Ahmad: Will the Government try and press on the authorities of the League of Nations to have Indian representation in proportion to our contribution?

Sir Lancelot Graham: I should be very sorry to be Secretary-General of the League if that obligation is daid upon me.

Dr. Ziauddin Ahmad: Then will it be right on our part if we propose that the contribution should be stopped?

GOVERNMENT LOANS IN 1931.

110. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Mr. M. Maswood Ahmad): Will Government please lay on the table of the House a statement containing information under the following heads:

(*a*) The date and amount of loans issued by the Government of India in 1931;

(*b*) Date of issue of prospectus of the loans;

(*c*) List when opened;

(*d*) List when closed;

(*e*) Amount applied for;

(*f*) Date of maturity;

(*g*) Issue price;

(*h*) Nominal rate of interest per cent.;

(*i*) Redemption yield on the terms offered;

(*j*) Redemption yield on the first day of January, 1932;

(*k*) What amount of previous loans were converted into these loans; and

(*l*) Amount of previous securities converted into loans of 1932?

The Honourable Sir George Schuster: I lay a statement on the table of the House.

Loans issued by the Government of India in 1931.

	In England.		In India.
(*a*)	5½ per cent. Stock 1936—38.	6 per cent. Bonds 1933-34.	6½ per cent. Treasury Bonds 1935.
	£12,000,000 cash. £5,000,000 conversion.	£10,000,000	No limit was specified.
(*b*)	7th February 1931	20th May 1931	1st September 1931.
(*c*)	9th February 1931	20th May 1931	15th September 1931.
(*d*)	9th February 1931 for cash; 10th February 1931 for conversion.	31st May 1931	12th December 1931.
(*e*)	£14,660,200 cash	£10,000,000 of which £3,801,650 was by public subscription and £6,198,350 by underwriters.	About 16¼ crores.
(*f*)	Latest 15th July 1938. Earliest 15th July 1936.	15th December 1934. 15th December 1933	15th September 1935.
(*g*)	£97 per cent.	£100 per cent.	Rs. 100 per cent.
(*h*)	£5½ per cent.	6 per cent.	6½ per cent.
(*i*)	6·016 (taking the latest date). 6·150 (taking the earliest date).	6 per cent.	6½ per cent.

(*j*) This part of the question is not understood. So far as Government are concerned the redemption yield remains the same throughout the currency of the loans.

(*k*) £5,000,000 5½ per cent. Stock 1932. Rs. 2,94,00,000 of 6 per cent. 1931 Bonds.

(*l*) No loans have yet been raised in 1932.

NUMBER OF POLITICAL PRISONERS DETAINED UNDER RECENT ORDINANCES.

111. ***Mr. S. C. Mitra:** Will Government please state the number of political prisoners detained in jail up to the 15th January, 1932, in the different provinces under the several Ordinances promulgated in 1931 and 1932?

The Honourable Sir James Crerar: I have asked for figures of persons detained without trial under the various Ordinances and will supply them to the Honourable Member in due course.

Mr. S. C. Mitra: Will the Honourable Member kindly place those figures on the table of the House?

The Honourable Sir James Crerar: I am quite prepared to place them on the table of the House.

Dr. Ziauddin Ahmad: Then we will be able to put supplementary questions.

DESPATCH OF TROOPS TO CHITTAGONG AND ARREST OF ABSCONDERS.

112. ***Mr. S. C. Mitra:** (*a*) Is it a fact that detachments of the Army have been sent to Chittagong under Ordinance No. XI of 1931; if so, will Government please state the number of troops sent there?

(*b*) Will Government please state the total cost involved for the soldiers stationed at Chittagong up till the 15th January, 1932?

(*c*) Is it a fact that the troops are being maintained in Chittagong mainly for the purpose of arresting the absconding accused in the Chittagong armoury raid case?

(*d*) If so, what is the number of the absconders, and how many of them have since been arrested as the result of the military operations and the dates of their arrests?

The Honourable Sir James Crerar: (*a*) The answer to the first part of the question is in the affirmative. The following troops were sent:

The 1/5th Mahratta Light Infantry (less two platoons and Depôt personnel).

Two companies of the 2/8th Gurkha Rifles.

One detachment of the Royal Signals (W/T Pack).

(*b*) The information is not available at present, but will be obtained and communicated to the Honourable Member.

(*c*) The arrest of absconders is one of the reasons for which the police, aided by troops, are employed.

(*d*) At the time of the promulgation of the Bengal Emergency Powers Ordinance (XI of 1931) on the 1st December 1931, the number of absconders was 18. One has since been arrested.

CLASSIFICATION OF LADY PRISONERS.

113. ***Mr. S. C. Mitra:** (*a*) Is it a fact that lady Congress workers arrested under the Ordinances in Delhi have mostly been classed as "C" class prisoners? If so, will Government please give reasons?

(*b*) Are Government aware that some of these ladies come from very respectable and high class families and will Government please explain why they have not been classed as 'A' class prisoners? Do Government now propose to put them in "A" class? If not, why not?

(*c*) Is it a fact that Sreemati Chando Bibi who has been placed in class "C" belongs to a family holding large landed properties?

(*d*) Are Government aware that she was accustomed to a high standard of living? If not, are Government prepared to make enquiries? If not, why not?

The Honourable Sir James Crerar: (*a*) and (*b*). The suggestion made by the Honourable Member is incorrect. Actually only one-third of the number convicted have been placed in "C" class after due enquiry

(*c*) and (*d*). Sreemati Chando Bibi is an under-trial prisoner on bail and not in jail. The question of classification does not therefore arise.

Mr. Lalchand Navalrai: Is the Honourable Member aware that these ladies who were convicted on a former occasion were classed either as A or B class prisoners and not put under class C?

The Honourable Sir James Crerar: I have no information to that effect.

Mr. S. C. Mitra: Is not the Honourable Member aware that even under-trial prisoners in Bengal are entitled to be classified as A, B or C, because the period of trial may extend to some years?

The Honourable Sir James Crerar: I think if the Honourable Member will refer to the rules regulating the classification of prisoners, he will find that his assumption is not correct.

Mr. S. C. Mitra: Will he kindly refer to the Bengal rules, because there even under-trial prisoners are classified?

TRAINING OF APPRENTICES IN ORDNANCE FACTORIES.

114; *Mr. S. C. Mitra: (*a*) Will Government please state whether it is a fact that the theoretical training given to apprentices in the ordnance factories in India and particularly in the Rifle Factory at Ishapore, is being abolished? If so, why?

(*b*) Are Government aware that in the absence of proper theoretical training the certificates of the successful apprentices will have no value outside the ordnance factories?

(*c*) Will Government be pleased to state whether successful apprentices only with practical training from the Rifle Factory at Ishapore, and other ordnance factories in India will be appointed to higher posts as announced by the Army Department Notification, dated the 19th September, 1931, in the *Gazette of India* defining the rules and regulations for the recruitment and training of those apprentices?

(*d*) Do Government propose to maintain the existing arrangements and conditions for the training of apprentices in the ordnance factories in India, particularly those prevailing in the Rifle Factory at Ishapore? If not, why not?

(*c*) Will Government please state how they propose to employ the successful candidates who are at present undergoing training in the Ordnance Factories in India?

(*f*) Do Government propose to stop the theoretical training and the training in the Laboratories to the existing apprentices in the Rifle Factory at Ishapore? If so, why?

(*g*) Are Government aware that there has been a regular unrest and panic amongst the teachers and the apprentices in the Rifle and other Ordnance Factories at Ishapore in view of the abandonment of the theoretical and Laboratory trainings to the existing apprentices there? If not, do Government propose to enquire?

(*h*) Do Government propose to issue a circular protecting the rights and privileges of the existing apprentices with the direction to circulate the same amongst the apprentices in the Rifle and other Ordnance Factories at Ishapore? If not, why not?

Mr. G. M. Young: (*a*) and (*d*). Theoretical training during working hours is being greatly reduced in order to provide time for essential practical training. No other change is contemplated in the existing arrangements for training.

(*b*) No, Sir.

(*c*) and (*e*). Successful apprentices who show practical ability and power of control in workshops will be given preference when recruitment is made to the junior appointments in ordnance factories.

(*f*) Theoretical training is being greatly reduced as it is not essential for foremen mechanics.

(*g*) The answer to both questions is in the negative.

(*h*) No, Sir, there is no necessity, to do so.

†115.*

COST OF RELIEF AND TRANSFER OF BRITISH TROOPS.

116. *Mr. A. Das: Will Government be pleased to inform the House of the total cost involved (*a*) in getting fresh British troops from England to India, (*b*) in sending British troops from India to England, and (*c*) in the transfer of British troops in India from one station to another in India?

Mr. G. M. Young: The total cost of (*a*) and (*b*) is about Rs. 62¾ lakhs annually.

(*c*) Separate figures for British troops are not available. The maximum annual cost of all moves of units, British and Indian, in India may be taken as Rs. 15½ lakhs. It has not exceeded Rs. 14 lakhs in either of the last two years, and a reduced sum of 10 lakhs will be provided on this account in 1932-33.

LACK OF TRAFFIC ARRANGEMENTS FOR PILGRIMS VISITING THE SHRINE OF NIZAMUDDIN OLIA AT DELHI.

117. *Kunwar Hajee Ismail Ali Khan: (*a*) Are Government aware that a great many pilgrims visit the shrine of Nizamuddin Olia (Delhi) every Thursday in general and the first Thursday of every (Arabic) month in particular?

†Question withdrawn by the questioner.

(*b*) Is it a fact that there is no proper place and traffic police arrangement for parking cars and tongas?

(*c*) If the answer to above is in the affirmative, do Government propose to take the necessary action immediately?

The Honourable Sir James Crerar: (*a*) I am informed that about 20—25 persons visit the shrine on Thursdays and that this number is roughly doubled on the first Thursday of the Arabic month.

(*b*) It is a fact that no special parking ground exists for the conveyances of those visiting the shrine. The number of such conveyances is never large and they are invariably parked on Lodi Road.

(*c*) Does not arise.

FLYING OF A NATIONAL FLAG IN INDIA.

118. ***Mr. S. C. Mitra:** (*a*) Will Government please state whether the flying of the Indian national flag is considered as illegal or seditious? If so, why?

(*b*) Are Government aware that the different constituents of the British Commonwealth of Nations have their distinct and separate national flags?

(*c*) Are Government aware that several cases have been reported recently in the Press of the Indian national flag being pulled down by the police and the Union Jack being set up in its stead even in private places?

(*d*) Do Government contemplate taking steps prohibiting the police from interfering with the flying of the Indian national flag? If not, why not?

The Honourable Sir James Crerar: (*a*) I am not aware that the flying of any flag is in itself either illegal or seditious.

(*b*) Yes.

(*c*) I have seen reports of cases in which possession has been taken by Government of places under Ordinance No. IV of 1932 and the Union Jack has been flown in place of the flag previously flying there.

(*d*) The Honourable Member will no doubt recognise that action in this matter must depend largely on the particular circumstances and that no general order of the kind suggested would be appropriate.

CASUALTIES CAUSED IN DISPERSING CROWDS.

119. ***Mr. S. C. Mitra:** Will Government please lay on the table a statement of the casualties in dead and wounded in dispersing crowds under the ordinances in the North-West Frontier Province and other provinces separately, during the last six months?

The Honourable Sir James Crerar: I understand that the Honourable Member desires to have such information as is readily available regarding casualties arising out of the civil disobedience movement and the measures taken against it. I am obtaining certain figures and will communicate them in due course.

†120.*

†Question withdrawn by the questioner.

CONSTRUCTION OF A RAILWAY STATION AT FARIDPUR.

121. ***Mr. S. C. Mitra:** With reference to my starred question No. 878 of the 9th March, 1931, regarding the construction of the railway station at Faridpur within the municipal area, as recommended by the Government of Bengal, will Government please state if the plan and estimate prepared by the Eastern Bengal Railway authorities have reached the Railway Board yet; if so, whether any fund has been allotted for the purpose in the coming Railway Budget; if not, why not?

Sir Alan Parsons: A plan and estimate for the new station and a report on it have been prepared, but have not yet been submitted to the Railway Board. I understand that a note showing how traffic will be dealt with at this new station is under preparation. I also understand that a site for it has been selected which meets with general approval. I am afraid it will not be possible to find funds for the work next year.

CREATION OF A NEW APPOINTMENT IN THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS.

122. ***Mr. S. C. Mitra:** (*a*) Will Government be pleased to say if it is a fact that one Secretariat Superintendent has recently been appointed as an officer attached to the office of the Director General of Posts and Telegraphs?

(*b*) What is the designation of the appointment?

(*c*) Is this a new appointment? If so, what are the reasons for its creation?

(*d*) If it is not a new appointment, why has a new designation been given?

(*e*) Was the officer all along drawing the Secretariat scales of pay?

(*f*) Was not an officer of the Posts and Telegraphs Department available and fit to hold the appointment?

The Honourable Sir Joseph Bhore: (*a*) and (*b*). The Honourable Member's reference is evidently to the appointment of the Superintendent of the Secretariat Branch in the office of the Director General of Posts and Telegraphs as Personal Assistant to the Director General.

(*c*) and (*d*). It is a new appointment replacing one of the more expensive appointments of Assistant Directors-General previously existing. The designation of the post corresponds to the duties of its incumbent.

(*e*) Yes.

(*f*) Yes, the officer in question was and is an officer of the Posts and Telegraphs Department.

Mr. S. C. Mitra: Will the Honourable Member please explain how he reconciles his answer to part (*e*) and part (*f*), because the officers in the Postal Service do not get salaries on the Secretariat scale. In answer to part (*e*) the Honourable Member says that the Personal Assistant to the Director General gets the Secretariat scale of pay, and in reply to part (*f*) he says that he is an officer of the Posts and Telegraphs Department. How will he reconcile those two statements?

The Honourable Sir Joseph Bhore: I do not quite follow my friend, but if he will put his point to me separately I shall endeavour to satisfy him.

Mr. S. C. Mitra: Is it not a fact that the officers in the Postal Secretariat side are paid on inferior scale of pay lower than the scale adopted in the main Secretariat? Is it not a fact that the clerks of the Postal Secretariat do not get the ordinary Secretariat scale of pay because it is an attached office where a lower scale of pay obtains, at present?

The Honourable Sir Joseph Bhore: I should like to have notice of that question. I am afraid I do not carry the scales of pay in my head.

SUBSTITUTION OF ASSISTANT DIRECTORS GENERAL BY ASSISTANT DEPUTY DIRECTORS GENERAL OF POSTS AND TELEGRAPHS.

123. ***Mr. S. C. Mitra:** (*a*) Are Government aware that the Posts and Telegraphs Sub-Committee of the Retrenchment Advisory Committee in para. 106 of their *interim* report recommended the substitution of Assistant Directors-General by Assistant Deputy Directors-General on a basic pay *plus* a special pay of 30 per cent. of their basic pay?

(*b*) If so, will Government be pleased to say whether the recommendation has been accepted in full?

(*c*) If not, what are the reasons for any deviation?

The Honourable Sir Joseph Bhore: (*a*) Yes.

(*b*) The recommendation has been accepted with the modification that the officers in question should get a fixed special pay of Rs. 250 per mensem.

(*c*) Government consider that the most suitable and equitable form of remuneration would be a fixed special pay in addition to the officers' ordinary pay.

LEAVE RESERVE OF ASSISTANTS IN THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS.

124. ***Mr. S. C. Mitra:** (*a*) Is it a fact that the leave reserve of the Assistants in the office of the Director General of Posts and Telegraphs, has been fixed in the grade of clerks?

(*b*) Are Government aware of the existence of a similar practice in any other attached office of the Government of India and the Secretariat?

(*c*) If the reply to part (*b*) is in the negative, will Government explain why the system has been introduced in this office only?

The Honourable Sir Joseph Bhore: (*a*) Yes.

(*b*) No.

(*c*) The office of the Director General has recently been reorganised in the interests of economy and the arrangement in question which is expected to work satisfactorily, has been approved as a measure to that end.

STAFF OF THE LEAGUE OF NATIONS SECRETARIAT AND THE AMOUNT OF CONTRIBUTIONS MADE BY DIFFERENT NATIONS.

125. ***Mr. S. C. Mitra:** Will Government please state:

(*a*) the number of officers and the subordinate staff in the Secretariat of the League of Nations and also the number of Indians in each Department;

(*b*) the amount of contribution India makes towards the finances of the League as also the contributions by England, France, Japan and Italy; and

(*c*) the total amount of contribution of all the members of the League of Nations, and the staff of officers and subordinates in the Secretariat from England, France, Japan and Italy?

Sir Lancelot Graham: (*a*), (*b*) and (*c*). The attention of the Honourable Member is invited to pages 1986-2021 of the Official Journal of the League of Nations, 12th Year, No. 10, October, 1931, a copy of which is in the Library.

Mr. B. Das: In view of the general retrenchment policy of the Government, have the Government of India considered the advisability of reducing the contribution which they make to the League of Nations by ten per cent.?

Sir Lancelot Graham: May I ask if that arises out of this question?

Mr. B. Das: Yes, out of part (*b*) of this question which says, "The amount of contribution India makes towards the finances of the League . . . . .". It does arise out of that question and I want a reply.

Sir Lancelot Graham: Does the Honourable Member tell us that India should reduce her contribution?

Mr. B. Das: Yes, by ten per cent.

Sir Lancelot Graham: He does not realise the constitution of the League at all. We cannot reduce our subscription. We have got to pay the subscription which is put upon us.

Mr. B. Das: Is the Honourable Member aware that the League of Nations has reduced its expenditure by 30 per cent., and is the Honourable Member aware that we pay our contribution on a gold basis, and owing to the present exchange conditions India is paying nearly double the amount in rupees?

Sir Lancelot Graham: The Honourable Member does not seem to understand the position at all. We must either pay our subscription or resign.

Mr. B. Das: I could not hear the Honourable Member.

Sir Lancelot Graham: The Honourable Member does not seem to understand the position at all. We belong to the League of Nations, and one of the conditions of membership is that we pay our subscription. We should either resign from the League of Nations or pay our subscription. We cannot reduce our subscription simply because we are retrenching.

Mr. B. Das: May I repeat the question, so that some other Honourable Member on the Treasury Bench may answer? In view of the general retrenchment policy of the Government, have the Government of India considered the advisability of reducing our contribution to the League of Nations?

Sir Lancelot Graham: We cannot reduce . . . .

Mr. R. K. Shanmukham Chetty: Is it a fact that the League of Nations have taken steps to reduce their expenditure by about 30 per cent. this year, and, if so, have the Government of India got any relief in that measure of retrenchment which the League of Nations has adopted?

Sir Lancelot Graham: We have been allotted a certain amount to pay, and till that sum is reduced by the League of Nations we have got to pay it.

Mr. B. Das: Do you pay in gold or in silver?

Mr. R. K. Shanmukham Chetty: I know that we have got to pay the League of Nations the subscription that is due from us, but what I want to know from Government is whether the Government have ascertained as a result of the retrenchment campaign in the League of Nations Secretariat if the Government of India will get any relief from that retrenchment campaign?

Sir Lancelot Graham: The reply to that is in the negative.

Mr. R. K. Shanmukham Chetty: The Government have not ascertained it?

Sir Lancelot Graham: No. We shall be duly informed if our subscription has been reduced.

Sir Hari Singh Gour: Have the Government of India ascertained who got the benefit of the 30 per cent. retrenchment effected by the League of Nations?

Sir Lancelot Graham: The answer to that is in the negative.

Sir Hari Singh Gour: Why not? A mere negative won't do. We want the reason for it.

Sir Lancelot Graham: That is a new question. I was asked whether we had ascertained. I said the reply is in the negative.

Sir Hari Singh Gour: I am entitled to ask why.

Sir Lancelot Graham: I am entitled to ask for notice.

Sir Hari Singh Gour: The Honourable Member was busy drawing up the Ordinances and he had no time to make enquiries. (Laughter.)

Dr. Ziauddin Ahmad: Will the Honourable Member say whether any other Government has retrenched or reduced its contribution to the League of Nations on account of its retrenchment?

Sir Lancelot Graham: Obviously no Government can retrench or reduce its contribution. It has either got to get out of the League or pay its subscription.

Diwan Bahadur Harbilas Sarda: Will the Government in the interests of the finances of this country make this enquiry and inform this House?

Sir Lancelot Graham: Make which enquiry?

Diwan Bahadur Harbilas Sarda: Whether any country is going to benefit by the retrenchment of about 30 per cent. effected by the League of Nations in its expenditure.

Sir Lancelot Graham: I see no reason for making that enquiry.

Mr. B. Das: Is it the opinion of the Honourable Member that payment should be made on a gold basis or in the currency . . . .

Sir Lancelot Graham: I understand I am asked for opinion.

Mr. B. Das: No opinion. I am asking for the fact.

Mr. President: The Honourable Member wants to know whether the payment made by the Government of India is in gold or in silver currency.

Sir Lancelot Graham: Payment is calculated on the basis of Swiss gold francs.

NUMBER OF AEROPLANES PURCHASED FOR THE AIR FORCE IN INDIA.

126. ***Mr. Rahimtoola M. Chinoy** (on behalf of Mr. Nabakumar Sing Dudhoria): Will Government be pleased to state:

(*a*) the total number of aeroplanes that have been purchased for the use of the Air Force attached to the Indian Army;

(*b*) the number of them that are serving in connection with the Air Force in India at the present moment;

(*c*) the total outlay on aeroplanes for the Indian Air Force up to date;

(*d*) the total expenditure that is annually incurred on the head of Air Force in India; and

(*e*) whether mechanisation of transport included buying of aeroplanes?

Mr. G. M. Young: (*a*) No accurate records are available before the year 1925-26. 318 aeroplanes have been purchased since that year.

(*b*) 98 service aircraft are in commission in India at present.

(*c*) The total outlay on aircraft for the Royal Air Force in India since 1925-26 is Rs. 187 lakhs.

(*d*) The total expenditure in 1930-31 amounted to Rs. 246 lakhs. Considerable retrenchment has since been effected and it is estimated that the expenditure in 1932-33 will amount to Rs. 158 lakhs.

(*e*) No, Sir.

MILITARY POWER HOUSES.

127. ***Mr. Rahimtoola M. Chinoy** (on behalf of Mr. Nabakumar Sing Dudhoria): Will Government be pleased to state:

(*a*) the number of military power-houses existing at the present moment in Cantonment areas in the United Provinces, the Punjab, and Central Provinces;

(*b*) the names of places where within a couple of miles or so of such military power-houses there exist also power-houses for neighbouring city areas;

(c) the annual expenditure that is incurred on the military power-houses in India;

(d) the number of Europeans employed in connection with all the military power-houses; and

(e) the scale of pay of a European electrical engineer in a military power-house?

Mr. G. M. Young: (a) 13. This figure does not include two stand-by power stations for use in emergency only.

(b), (d) and (e). I have called for the information and will communicate the Honourable Member when it is received.

(c) In 1929-30 the expenditure in stations throughout India where the M. E. S. generate electric energy, amounted to about Rs. 10·28 lakhs.

COMMISSIONED RESERVE OFFICERS IN THE INDIAN ARMY.

128. ***Mr. Rahimtoola M. Chinoy** (on behalf of Mr. Nabakumar Sing Dudhoria): Will Government be pleased to state:

(a) the number of commissioned reserve officers that exist in the Indian Army at the present moment;

(b) how many such officers are 1. Colonels, 2. Lt.-Colonels, 3. Majors, 4. Captains, and 5. Lieutenants; and

(c) how many of such officers are on leave abroad at the present moment.

Mr. G. M. Young: I presume the Honourable Member is referring to officers and officers-designate of the Army in India Reserve of Officers. If so, the answer is as follows:

(a) 1,646.

(b) 13 Lieutenant-Colonels, 189 Majors, 817 Captains, 499 Lieutenants, 122 2nd-Lieutenants and 6 gentlemen whose rank has not yet been assigned.

(c) Officers and officers-designate of the Reserve are not granted leave by the military authorities. I am unable to say how many of them are on leave from their civil employment.

COST OF SENDING EUROPEAN SOLDIERS TO THE HILLS.

129. ***Mr. Rahimtoola M. Chinoy** (on behalf of Mr. Nabakumar Sing Dudhoria): Will Government be pleased to state the normal amount that is annually spent on the European soldiers for their hill-station trips and sojourns?

Mr. G. M. Young: The normal annual expenditure on account of the moves of British troops to the hills is about Rs. 2½ lakhs.

COST TO INDIA OF THE ROUND TABLE CONFERENCE AND COMMITTEES.

130. ***Mr. Rahimtoola M. Chinoy** (on behalf of Mr. Nabakumar Sing Dudhoria): Will Government be pleased to state:

(a) the total cost that it has involved the Indian exchequer for meeting the expenses of the last Round Table Conference; and

(b) the amount that is expected to be incurred by the Indian Government in meeting the expenses of the three English Committees which have come out in connection with the last Round Table Conference?

The Honourable Sir George Rainy: (a) The expenditure incurred from Indian revenues up to the end of December, 1931, amounted approximately to Rs. 1,36,680.

(b) On the assumption that the Honourable Member has in mind the Franchise Committee, the Federal Finance Committee and the Indian States Enquiry Committee, the expenditure to be incurred from Indian revenues has been estimated at about Rs. 5·6 lakhs, of which Rs. 1·6 lakhs is estimated to be incurred in the current year and Rs. 4 lakhs in the next year. This estimate, however, is now under revision in the hope it may be reduced. His Majesty's Government have agreed to bear all the costs of the allowances of members from England except the cost of their travel in India. It is anticipated that the Treasury will also bear the cost of the Secretariat staff sent from England.

RECRUITMENT FOR THE INDIAN MEDICAL SERVICE.

131. ***Mr. Rahimtoola M. Chinoy** (on behalf of Mr. Nabakumar Sing Dudhoria): Will Government be pleased to state:

(a) whether it is a fact that Indian applicants for the Indian Medical Service were told in their interview with the authorities that in case of their employment they would not be allowed to revert to the civil side as has hitherto been the practice;

(b) how many of the applicants have accepted such a condition before accepting service;

(c) the total number that has been recently recruited to the Indian Medical Service; and

(d) how many of them are Indians?

Mr. G. M. Young: (a) All candidates who appeared before the Selection Board in India in November last were made aware of the conditions stated in the "Memorandum regarding Appointment to and Conditions of Service in His Majesty's Indian Medical Service" which contains the following remark in paragraph 28:

> "It is not possible to state at present what, if any, prospects of employment on the civil side will be open to Indian Medical Service officers under the proposed new constitution for India."

(b) As none of the candidates withdrew his application, it is presumed that the condition was accepted by all.

(c) and (d). 66 officers were appointed to the Indian Medical Service during 1930 and 1931, of these 38 were Indians.

CLOSING OF THE RAILWAY STAFF COLLEGE AT DEHRA DUN.

132. *Mr. Rahimtoola M. Chinoy (on behalf of Mr. Nabakumar Sing Dudhoria): Will Government be pleased to state:

(a) the reason or reasons for which the activities of the Railway Staff College at Dehra Dun have been suspended this year;

(b) the normal amount that has been spent annually on that institution;

(c) how long the institution has been in existence;

(d) how long the institution is proposed to be kept closed; and

(e) the manner in which the buildings of the institution and the services of the existing staffs of teachers and servants will be utilised during the period the institution is proposed to be kept closed?

Sir Alan Parsons: (a) and (d). I would refer the Honourable Member to the reply given to question No. 53 asked by Mr. Lalchand Navalrai on the 26th January, 1932.

(b) The total expenditure including interest on Capital and depreciation during the year 1930-31 was Rs. 3,76,778.

(c) The institution started to function in January, 1930.

(e) The buildings are being transferred to the Army Department to be utilised for the Indian Military Academy. Persons employed at present at the Railway Staff College who have a lien on a permanent post on a Railway will revert to such post. Efforts will be made to find suitable posts for others, failing which their services will be terminated.

SUSPENSION OR REDUCTION OF RECRUITMENT BY THE PUBLIC SERVICE COMMISSION.

133. *Mr. Rahimtoola M. Chinoy (on behalf of Mr. Nabakumar Sing Dudhoria): Will Government be pleased to state:

(a) whether they contemplate circumscribing the normal activities, in the matter of enlistment and recruitment, of the Public Services Commission during this year;

(b) if the answer is in the affirmative, (1) the particular service or services where fresh recruitment is proposed to be suspended altogether; and (2) the departments where their activities will be only partially suspended; and

(c) the period for which such suspension is likely to last?

The Honourable Sir James Crerar: I am ascertaining the position and will send a reply to the Honourable Member in due course.

RUMOURED FURTHER 10 PER CENT. CUT IN SALARIES.

134. *Mr. Rahimtoola M. Chinoy (on behalf of Mr. Nabakumar Sing Dudhoria): Will Government be pleased to state:

(a) whether there is any truth in the rumour that there will be a further 10 per cent. cut in the salaries;

(b) if the answer is in the affirmative, the month from which the new cut is to take effect;

(c) the minimum salary which will be exempt from the operation of the new cut;

(d) the saving likely to result from the operation of such a fresh cut; and

(e) whether the period of the fresh cut is to last for the same period as that for the 10 per cent. cut already imposed?

The Honourable Sir James Crerar: (a) No. The rumour was contradicted in a Government communiqué which issued on the 20th January, 1932.

(b), (c), (d) and (e). Do not arise.

CONTRIBUTIONS TO THE CENTRAL GOVERNMENT FROM THE PROJECTED PROVINCES OF THE NORTH-WEST FRONTIER AND SIND.

135. *Mr. Rahimtoola M. Chinoy (on behalf of Mr. Nabakumar Sing Dudhoria): Will Government be pleased to state:

(a) whether in their report to the Home Government they have recommended that on the creation of a province in the North-Western Frontier and in Sind those provinces will have to contribute towards the expenses of the Central Government; and

(b) if the answer is in the affirmative, the probable amount which each of such prospective provinces will have to contribute for that purpose?

The Honourable Sir George Rainy: (a) No.

(b) Does not arise.

RETRENCHMENT IN THE STAFF OF THE GEOLOGICAL SURVEY OF INDIA.

136. *Mr. Rahimtoola M. Chinoy (on behalf of Mr. Nabakumar Sing Dudhoria): Will Government be pleased to state:

(a) how many officers there existed in the Geological Survey Service before the introduction of the retrenchment;

(b) how many of those officers have been axed for the sake of retrenchment;

(c) how many of the officers retrenched are Indians; how many of the officers retained are Europeans; and

(d) what is the net amount to be saved by the retrenchment of the officers only in that department?

The Honourable Sir Joseph Bhore: (a), (b) and (c). There were 36 gazetted officers in the Geological Survey prior to retrenchment. Of these 19 were Europeans, 16 were Indians and 1 was an officer of European parentage and Indian domicile. One European and one Indian officer are retiring in the ordinary course. Of the remainder, 7 Europeans and 3 Indians will be finally retrenched. Four other Indian officers have also been served with notice of termination of their service, but I hope to be able to offer them re-employment in a lower gazetted grade of the Survey than that in which they are at present serving. If they are so employed, the number of officers, remaining will consequently be 11 Europeans, 12 Indians, and 1 European with Indian domicile.

(d) About Rs. 1,17,000 per annum.

PENSIONS OF OFFICERS OF THE INDIAN MUSEUM, CALCUTTA.

137. ***Pandit Satyendra Nath Sen:** Will Government please refer to the answer to the starred question No. 10, dated the 26th January, 1931 (regarding contribution to pensions by the Trustees of the Indian Museum, Calcutta), and say whether officers that serve in a private institution like the Indian Museum could draw their whole pension from the Government of India?

Sir Frank Noyce: Officers of Government whose services are lent to a private institution draw their pensions from Government An officer whose pay is met from a local fund or from a fund which is akin to a local fund and who is not a Government servant may draw pension from Government only if, with the approval of Government, the authority administering the fund makes a permanent arrangement for contribution towards that pension.

CHARGE FOR THE COST OF ESTABLISHMENT OF THE INDIAN MUSEUM, CALCUTTA.

138. ***Pandit Satyendra Nath Sen:** Will Government please refer to the answer to part (*b*) of starred question No. 474, dated the 5th March, 1930, stating that the charge on account of the cost of establishment of the Trustees of the Indian Museum falls on the Government of India and not on the Trustees of the Indian Museum and reconcile the same with the statement made, in reply to the starred question No. 12 (*a*), dated the 26th January, 1931, in the Legislative Assembly that the late Head Clerk of the Office of the Trustees of the Indian Museum drew his pay from the funds at the disposal of the Trustees?

Sir Frank Noyce: There is no inconsistency in the two statements mentioned in the Honourable Member's question. The position is that Government make an annual grant-in-aid to the Trustees of the Indian Museum from which the cost of the establishment employed by them is met.

REPAYMENT OF ADVANCES FROM PROVIDENT FUNDS.

139. ***Pandit Satyendra Nath Sen:** Will the Honourable Member in charge of the Finance Department be pleased to state whether with a view to mitigate the hardship caused by the emergency cut in the salaries of Government servants they are prepared to consider giving them an option of repaying the advance given to them from Provident Fund in a maximum of 36 instalments instead of 24 as at present?

The Honourable Sir George Schuster: Action on the lines indicated has already been taken; and a copy of the orders issued is placed on the table of the House.

Extract from a letter No. 3699-R.-II, dated the 16th January, 1932, from the Government of India, Finance Department to all concerned.

* * * * *

(*b*) *Repayment of advances.*—A sanctioning authority may, on a subscriber's written request, sanction the following extensions of the period of repayment of a current advance :—

(1) If the advance is recoverable in 12 instalments, the monthly instalment payable may be reduced thenceforward to one-half (rounded to the nearest rupee) on condition that the additional instalment on account of interest shall be at 5 *per cent.* and not 3½ *per cent.* of the principal;

(2) If the advance is repayable in 24 instalments, the monthly instalment may be reduced thenceforward to two-thirds (rounded to the nearest rupee) on condition that the two additional instalments on account of interest shall be at 4½ *per cent.* and not 3½ *per cent.* of the principal.

CLOTH SEIZED BY THE POLICE AT BHAGALPUR.

140. ***Mr. Bhuput Sing:** (*a*) Has the All-India Spinners' Association been declared illegal by the Government of India? If so, on what grounds?

(*b*) Is it a fact that Khaddar clothes worth lakhs of rupees have been seized by the Government of Bihar and Orissa at Bhagalpur and other places from the various branches of the All-India Spinners' Association and taken away by the police in bullock-carts? If so, has this been done by them on their own initiative or under instructions from the Government of India?

(*c*) Are Government aware of the panic caused in the business market and the effect on Indian trade and industry by this action of the police?

The Honourable Sir James Crerar: (*a*) The answer to the first part of the question is in the negative.

(*b*) I have no information of any such action but I am making enquiries.

(*c*) Does not arise.

RUMOURED RELEASE OF MR. GANDHI.

141. ***Mr. Bhuput Sing:** (*a*) Will Government be pleased to state whether there is any truth in the rumour that Mahatma Gandhi is to be released on parole?

(*b*) If not, are Government in a position to say how the rumour originated? Was an undertaking not to support the civil disobedience movement demanded from him by Government? If so, when and how and by whom?

The Honourable Sir James Crerar: (*a*) No.

(*b*) The answer to both parts is in the negative.

I would refer the Honourable Member to the correspondence which was published in the Gazette of India of January 16th last.

DEPORTATION FROM THE NORTH-WEST FRONTIER PROVINCE OF FATHER ELWIN.

142. ***Mr. Gaya Prasad Singh:** (*a*) Will Government kindly state why Father Elwin has been deported from the Frontier Province?

(*b*) With what institutions is he connected?

Sir Evelyn Howell: (*a*) Father Elwin was deported from the North-West Frontier Province under section 4(1)(*c*) of the Emergency Powers Ordinance, 1931, because his presence there was considered undesirable.

(*b*) Government have no information.

STAFF OF THE VETERINARY HOSPITAL AT MHOW CANTONMENT.

143. ***Mr. Gaya Prasad Singh:** (*a*) Is there a veterinary hospital at Mhow Cantonment (Central India), in which there is an Indian officer getting about Rs. 75 per month; and two European officers getting about Rs. 1,200 each per month?

(*b*) What are the functions of these officers?

(*c*) How far has the scheme of retrenchment affected the Indian and the European officers and staff of the hospital; and is it proposed to retrench at least one European officer? If not, why not?

Mr. G. M. Young: (*a*) Yes.

(*b*) The senior British officer is the Deputy Assistant Director, Veterinary Services, Mhow District, and is also the Officer Commanding the Military Veterinary Hospital at Mhow. He is responsible for the supervision and treatment of all animals in the District.

The junior British officer is in veterinary charge of animals at Mhow, Nasirabad, Neemuch and Mount Abu and also acts for the Deputy Assistant Director during his absence on tour.

The Indian officer is a Veterinary assistant surgeon and is responsible, under the orders of the Officer Commanding the Hospital, for the general supervision of the hospital establishment. He assists the Officer Commanding in his veterinary duties.

(*c*) No retrenchment has been found possible in these posts. All three officers and their subordinates are fully employed.

CONSTRUCTION OF RAILWAY LINES BETWEEN DOHAD OR RUTLAM AND GALIAKOT.

144. ***Mr. Gaya Prasad Singh:** (*a*) Has the project of railway construction between Dohad and Galiakot (Bombay, Baroda and Central India Railway) been sanctioned? If so, when, and what is the estimated cost?

(*b*) Has the project of constructing a railway line from Rutlam Junction on the Bombay, Baroda and Central India Railway, main line, to Galiakot, *via* Sailana, been examined and abandoned? If so, why?

Sir Alan Parsons: (*a*) and (*b*). No.

INCOME AND EXPENDITURE FROM CUSTOMS AND ADMINISTRATION OF KARACHI AND INCOME-TAX IN SIND.

145. ***Seth Haji Abdoola Haroon:** (*a*) Will Government be pleased to lay on the table a statement showing the total income by way of customs duty and actual expenditure incurred on the administration of the port of Karachi during the last official five years, say 1926-27, 1927-28, 1928-29, 1929-30, 1930-31, separately for each year?

(*b*) Will Government be pleased to lay on the table a statement showing total income by way of Income-tax and actual expenditure incurred on the administration of that department in the province of Sind during the last financial five years 1926-27, 1927-28, 1928-29, 1929-30, 1930-31, separately for each year?

The Honourable Sir George Schuster: (*a*) A statement showing the information asked for by the Honourable Member is placed on the table. I have assumed that the Honourable Member refers to expenditure on the Customs administration of the port, not on the general administration of the port.

(*b*) A statement is laid on the table.

Statement showing the income on account of custom duty and actual expenditure incurred on the administration of the port of Karachi.

	1926-27.	1927-28.	1928-29.	1929-30.	1930-31.
Customs duty excluding salt (Import and Export duties) . .	5,83,67,738	5,71,78,631	6,30,91,776	6,05,63,886	6,32,39,226
Expenditure .	7,35,756	7,81,307	7,56,294	7,79,589	7,63,638

Statement showing the total income by way of income-tax and the actual expenditure incurred on the administration in the province of Sind during the last financial five years, 1926-27 to 1930-31.

Year.	Income by way income-tax and super-tax.	Actual expenditure.
	Rs.	Rs.
1926-27	12,09,013	1,83,811
1927-28	15,70,965	1,89,977
1928-29	17,42,516	1,90,916
1929-30	16,77,967	1,95,158
1930-31	17,52,061	2,08,936

Dr. Ziauddin Ahmad: I have not seen the statement. Will the Honourable Member inform us whether the money realised during the last two months in customs is the same as he expected.

The Honourable Sir George Schuster: I would ask you whether that question arises out of the original question.

Mr. President: Next question, please.

CASUAL LEAVE AND GATE ALLOWANCES OF CREW STAFF AND TICKET COLLECTORS OF THE EAST INDIAN RAILWAY.

146. ***Dr. Ziauddin Ahmad:** (*a*) Is it a fact that Government have sanctioned casual leave and gate allowances to the crew staff and the old ticket collectors on the East Indian Railway?

(*b*) Are these allowances given in every division uniformly?

(*c*) Are these allowances given to persons serving in the Dinapur division?

(*d*) Are these allowances given to persons serving in the Howrah and Lucknow divisions? If not, why not?

Sir Alan Parsons: I have called for the information from the Agent, East Indian Railway, and will communicate it to the Honourable Member on its receipt.

Dr. Ziauddin Ahmad: Will the Honourable Member place the information on the table of the House so that Members may ask questions?

(No reply was given.)

AVOIDANCE OF BREAK IN SERVICE OF RAILWAY OFFICIALS RETRENCHED AND RE-EMPLOYED.

147. ***Dr. Ziauddin Ahmad:** (*a*) Have Government taken measures to avoid break of services of persons who were retrenched and subsequently reinstated in the Railway Service?

(*b*) Have they lost their seniority in grade?

Sir Alan Parsons: (*a*) The question of condoning the break in service will be considered at the time of subsequent employment.

(*b*) Seniority on subsequent appointment will be fixed in each case by the appointing authority. I am sending the Honourable Member a copy of the Railway Board's letter No. 683-E. G., dated the 3rd March, 1931, to Agents of State-managed railways which indicates that special consideration in certain matters will be shown to men whose services are terminated on reduction of establishment and who are subsequently employed.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member inform the House whether it is a fact or not that condonation of service is always considered by Railway Agents at the termination and not at the beginning of a man's re-employment?

Sir Alan Parsons: I am not able to give a definite answer without notice, but my impression is that when a man who has been discharged is re-employed, the terms on which he will be re-employed are then considered.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member obtain correct information on this point and inform this House? I believe I am correct in what I said but I should like to be corrected.

Sir Alan Parsons: If the Honourable Member will put down a question, I shall certainly give him a reply on that point.

PURCHASE OF THE BENGAL AND NORTH-WESTERN RAILWAY.

148. ***Dr. Ziauddin Ahmad:** What steps have Government taken to purchase the Bengal and North-Western Railway? Will Government be pleased to lay on table the correspondence that has passed between the Government of India and the Secretary of State and between the Secretary of State and the Director of the Company since August, 1931?

Sir Alan Parsons: At the request of the Government of India the Secretary of State is now conducting negotiations with the Boards of Directors of the Bengal and North-Western and Rohilkund and Kumaon

Railway Companies on the basis of the Resolution adopted by the Assembly last September. The question of publishing the correspondence on the subject will be considered when the negotiations are complete.

WORK OF THE RAILWAY RETRENCHMENT SUB-COMMITTEE AND THE EXPERT COMMITTEE.

149. ***Dr. Ziauddin Ahmad:** (*a*) Is it not a fact that Government stopped the Railway Retrenchment Sub-Committee from visiting running lines on the ground that they were appointing an expert Committee to carry on the work in October and November, 1931?

(*b*) Is it not a fact that the Railway Retrenchment Sub-Committee finished its work by examining Members of the Railway Board and a few other officers at Simla?

(*c*) When will the contemplated expert Committee begin its work?

(*d*) Do Government propose to ask the Railway Retrenchment Sub-Committee to finish its work if the expert Committee is not appointed immediately?

The Honourable Sir George Rainy: (*a*) No.

(*b*) Yes.

(*c*) Immediately after the report of the Railway Retrenchment Sub-Committee was received efforts were made to obtain suitable personnel for an expert committee in the hope that its enquiries could be undertaken this cold weather. I regret however that, owing to the urgent preoccupations of the leading railway and financial experts, in the present very difficult times our efforts were not successful and the constitution of the Committee has therefore, owing to causes beyond the control of the Government of India, had to be postponed till next year.

(*d*) The Retrenchment Sub-Committee, in paragraph 212 of their report, expressed the opinion that the further investigation could be more usefully undertaken by a small committee composed mainly of financial and railway experts. Government agree with this view.

Dr. Ziauddin Ahmad: This particular paragraph referred to by the Honourable Member was written on the understanding that the expert Committee would meet in October 1931; otherwise there would not have been that paragraph. We understood very clearly that the expert Committee would meet in October and November.

The Honourable Sir George Rainy: I am indebted to the Honourable Member for the information he has communicated.

I cannot, without notice, answer a question as to what information was or was not supplied to the Railway Retrenchment Sub-Committee, but I should be very glad if the Honourable Member will either put down a question or ask me privately on the subject.

Dr. Ziauddin Ahmad: I sent this question several times to the Honourable the Finance Member for discussion in the General Purposes Retrenchment Sub-Committee, but I got no reply.

GRIEVANCES OF POSTAL OFFICERS.

150. *Dr. Ziauddin Ahmad: Have Government seen the issue of the Postal Officers' Association India, Monthly Notes for December, 1931 (Vol. III, No. 12)? What steps do Government propose to take to meet the grievances mentioned therein?

The Honourable Sir Joseph Bhore: Yes. I presume that the Honourable Member refers to the retrenchment measures described in these Monthly Notes. These have been adopted by Government only after the most careful consideration and on the advice of the Posts and Telegraphs Sub-Committee of the Retrenchment Advisory Committee, as means of economy. Government have every sympathy with those officers whose position or prospects have been prejudiced by the action taken, but at the same time regret that it is quite impossible to reconsider their decision.

SUGAR PURCHASED FOR MILITARY CONSUMPTION.

151. *Seth Haji Abdoola Haroon: (a) Will Government be pleased to lay on the table exact figures of sugar bought for military consumption during the last three official years, separately for brown and white sugar?

(b) Are Government aware that the difference between the prices of white and brown sugar has been minimised considerably?

(c) Do Government propose in future to give preference to and buy Indian sugar, which resembles brown Java and is sold at the same price as the latter?

(d) Are Government prepared to invite tenders whenever they intend to buy sugar for military consumption?

Mr. G. M. Young: (a).

	Brown.	White.
1928-29	3,964 tons	..
1929-30	3,769¼ tons	..
1930-31	4,228 tons	3 tons, 12 cwts.

(b) Yes.

(c) Indian sugar will be purchased whenever it is procurable at or below the price of Java brown sugar, inclusive of all overhead charges for delivery at final destination. 816 tons of Indian sugar have been purchased during the current financial year.

(d) No, Sir. A trial of this method of purchase was made last September and proved unsuccessful. Sugar for military consumption is purchased from contractors on the approved list of the Director of Contracts. By means of wide advertisement in the press, English and vernacular, ample opportunities have been provided to persons engaged in the sugar trade to have their names included in the approved list of contractors.

Dr. Ziauddin Ahmad: Is it not desirable that the Military Department ought to encourage the home industry as compared with the Java trade?

Mr. G. M. Young: I think, Sir, that calls for an expression of opinion.

Diwan Bahadur A. Ramaswami Mudaliar: Are Government aware that the Army Retrenchment Sub-Committee have suggested that open tenders should be invited in all these cases?

Mr. G. M. Young: I am glad to take that information from the Honourable Member.

Diwan Bahadur A. Ramaswami Mudaliar: Will the Honourable Member be also glad to take the suggestion from that Sub-Committee?

Mr. G. M. Young: Every suggestion of the Army Retrenchment Sub-Committee will receive the fullest consideration.

FALSE CINEMA FILMS SHOWN IN INDIA.

152. *Seth Haji Abdoola Haroon: (a) Has the attention of Government been drawn to a leaflet in Urdu published recently at the Barki Press, Delhi, under the signatures of various persons, requesting them to stop the showing of false cinematograph films in theatres in connection with ladies of the family of the late Moghul Emperors and descendents of Mahomed, the Holy Prophet of Mussalmans?

(b) What action do Government propose to take to put a stop to the use of the false films referred to above?

The Honourable Sir James Crerar: (a) I have not seen the leaflet to which the Honourable Member refers.

(b) Local Governments have power to deal with objectionable films under the provisions of the Indian Cinematograph Act, and I have no doubt that they will take action when this is necessary.

FLIGHT OF GOLD FROM INDIA.

153. *Lala Hari Raj Swarup: (a) Will Government be pleased to state the total exports of gold from India month by month, since the promulgation of the Currency Ordinance of 1931?

(b) What steps have Government taken to prevent this flight of gold from the country?

The Honourable Sir George Schuster: (a) The figures of exports of gold are as follows:

(In thousands of Rs.)

From 22nd September 1931 to the end of September . .	25,04
For October 1931	9,05,44
For November 1931	8,57,45
From December 1931 to 23rd January 1932 approximately	24,45,00
Total .	42,32,93

(b) Government have not considered it desirable to take any steps.

EFFECT OF NEW CURRENCY POLICY.

154. *Lala Hari Raj Swarup: Will Government be pleased to state the effect of the new currency policy adopted under the Ordinance of 1931, on the gold reserves of the Government in India and England?

The Honourable Sir George Schuster: The amount of the Gold Reserve of the Government of India has remained practically unchanged. Its value in rupees has increased in proportion to the depreciation of the rupee in terms of gold and on the 22nd January was approximately 62·68 crores.

Mr. R. K. Shanmukham Chetty: Has the gold in the Paper Currency Reserve been revalued on the present basis in terms of rupees?

The Honourable Sir George Schuster: In the published returns the gold is still given according to the original valuation.

REPORTS OF RETRENCHMENT COMMITTEES.

155. ***Lala Hari Raj Swarup:** (*a*) Will Government be pleased to state if all the retrenchment committees, appointed by Government in pursuance of the Resolution of the Assembly have submitted their final reports? If not, what committees are still to submit such reports?

(*b*) Will Government be pleased to make a statement before this House as to the further steps and action taken by them on the various reports after the November session of the Assembly?

The Honourable Sir George Schuster: (*a*) Final or supplementary reports are still expected from the following sub-committees:

(1) The General Purposes Sub-Committee.
(2) The Army Sub-Committee.
(3) The Posts and Telegraphs Sub-Committee.
(4) The Stores, Stationery and Printing Sub-Committee.

(*b*) In connection with the Budget statement a memorandum will be furnished to the House indicating the action taken up to date or proposed to be taken on the various reports which have been received by Government.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to say whether the Government propose to place all these reports of Retrenchment Sub-Committees before this House for discussion during this session.

The Honourable Sir George Schuster: As far as I am aware, Sir, all the reports that have been received have already been circulated to Members of this House. It is the Government's intention to adopt a time-table which, if it is properly availed of by Honourable Members, should afford ample opportunity for discussing the retrenchment proposals.

CLASSES OF IMPRISONMENT AWARDED TO POLITICAL PRISONERS.

156. ***Mr. Lalchand Navalrai:** Will Government be pleased to make a statement as to the present policy of awarding classes to political prisoners both male and female?

The Honourable Sir James Crerar: The principles which regulate the classification of prisoners in Indian prisons have been explained in the communiqué of 19th February, 1930.

Mr. Lalchand Navalrai: May I ask the Honourable Member if there has been any change in the rules that had been framed for the classification of prisoners?

The Honourable Sir James Crerar: No, Sir.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to say whether at present the rules are not being properly enforced in the sense that ladies and gentlemen are being put in classes different from those in which they should have been put because of their position only and not in order to give them harder punishment?

The Honourable Sir James Crerar: No, Sir. I have no information of that kind.

Diwan Bahadur A. Ramaswami Mudaliar: Is the Honourable Member aware that whereas on the last occasion some of these very ladies and gentlemen were classed as A class prisoners, on the present occasion, they are classed as C class prisoners, and does the Honourable Member think that it is because they have been lowered in status, or is there any circular from the Government of India regarding these classifications?

The Honourable Sir James Crerar: I am not aware, Sir, of the facts cited by the Honourable Member, but I can inform him that no such circular has been issued.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to make inquiries, so far as Sind is concerned, and find out for himself that ladies of very high position have been given class C, whereas on the former occasion such ladies were given class A? Will the Honourable Member make inquiries and find out, and not merely say that, "There is no information available"?

The Honourable Sir James Crerar: If the Honourable Member will give me specific instances, I should be glad to consider them.

Mr. Lalchand Navalrai: The cases of Miss Gomi and Miss Lalwani are two typical cases. (After some interval) May I get a reply from the Honourable Member?

The Honourable Sir James Crerar: The Honourable Member was making a statement of which I duly took a note. I do not think it called for a reply from me.

Diwan Bahadur A. Ramaswami Mudaliar: Will the Honourable Member consider the suggestion of issuing general instructions to Provincial Governments on the subject that no distinction in classification is made because of the severity of the Ordinances?

The Honourable Sir James Crerar: The reply to the Honourable Member's question must be this, that the principles on which this classification was based were very carefully considered at the time; that no circumstances have arisen to modify those classifications; the principles are still in force, and I find no necessity to issue any circular on the subject.

Mr. Lalchand Navalrai: The Honourable Member should take it from us that there has been a difference in the rules, and what is required at the present moment is to find out whether Government propose to send a communiqué to all Provincial Governments drawing attention to the changes in classification now made.

The Honourable Sir James Crerar: I am unable to agree with the Honourable Member's statement that a difference has been made in the rules. I know perfectly well that no difference has been made in the rules.

SEIZURE OF CONGRESS FUNDS.

157. ***Rai Bahadur Sukhraj Rai:** Will Government be pleased to state:

(*a*) the total sums of money that have been seized by the police, from the different banks of India, as belonging to the Congress;

(*b*) whether the amounts will be confiscated to Government or these will be returned to the Congress when the movement is over;

(*c*) whether this action was taken also during the last civil disobedience movement; if not, why this time; and

(*d*) whether Government are aware of the effect of this on the stability of the Indian banks?

The Honourable Sir James Crerar: (*a*) The police have no such powers of seizure. I have no definite information of the total sum in regard to which the Local Governments have taken action under section 7 of Ordinance No. IV of 1932. 12 NOON.

(*b*) If the Honourable Member will refer to section 7 of Ordinance No. IV of 1932, he will find that under that section the Local Government may order the forfeiture of money, securities or credits which are being used or are intended to be used for the purposes of an unlawful association. The Honourable Member may assume that when an order of forfeiture is passed, the money will not be returned.

(*c*) No. The powers have been taken on this occasion, because Government consider they will be of value in combating an unlawful movement.

(*d*) They are not aware of any adverse effect.

UNSTARRED QUESTIONS AND ANSWERS.

DISPOSAL OF FILES IN THE OFFICE OF THE COMMISSIONER OF INCOME-TAX, BENGAL.

14. **Mr. S. C. Mitra:** (*a*) With reference to the answer given in the Council of State on 21st September 1931 by the Honourable Mr. A. H. Lloyd to question No. 107(*d*) asked by the Honourable Mr. S. C. Ghosh Maulik, will Government be pleased to state if it is a fact that a large number of files pending disposal for years together in the Office of the Commissioner of Income-tax, Bengal, including a considerable number of a very important nature, were disposed of during November and December, 1931, when the permanent Personal Assistant to the Commissioner, Mr. S. K. Ghosh, was on leave and Mr. M. Ameen was acting in his place?

(*b*) Is it a fact that the practice of issuing prompt circular instructions on questions of general interest raised in the Inspection Notes of the various inspecting authorities including those of the Member, Central Board of Revenue, has ceased in recent years in most cases? If so, why?

(*c*) Is it a fact that, besides the arrears already made up as referred to in part (*a*) above, there are still a number of files pending disposal for years together? If so, how many and why?

(*d*) Is it a fact that the forms for monthly returns which are submitted by Income-tax Officers to the Commissioner of Income-tax, Bengal, were found defective years ago?

(*e*) Is it a fact that a revision of these forms has been under contemplation?

(*f*) Is it a fact that the file dealing with this revision has been pending disposal for years together with the result that the Income-tax Officers have been compelled to submit the monthly returns in the old defective forms which are being typed for the purpose every month all these years and which have thrown a considerable amount of unnecessary work on the typists of the department?

The Honourable Sir George Schuster: (*a*) The answer is in the negative. Some old files were disposed of in November, 1931.

(*b*) and (*c*). The answer is in the negative.

(*d*), (*e*) and (*f*). The forms in question are satisfactory, and the Commissioner has not had any reason to regard them as defective, or to consider their amendment.

TRAVELLING ALLOWANCE DRAWN ON INSPECTION TOURS BY MR. F. W. STRONG, COMMISSIONER OF INCOME-TAX, BENGAL.

15. ***Mr. S. C. Mitra:*** (*a*) With reference to the answer given on 21st September, 1931, by the Honourable Mr. A. H. Lloyd to question No. 109 asked by the Honourable Mr. S. C. Ghosh Maulik, will Government be pleased to state the amount of travelling allowance drawn by Mr. Strong, as referred to in answer to part (*c*) of the question?

(*b*) Was he entitled to this amount of travelling allowance in its entirety under the rules in force governing inspections with recess (*vide* Item No. 3 (*ii*) of Government of India's orders under S. R. 129 as published in Posts and Telegraphs Compilation)? If not, to what amount was he entitled?

(*c*) Has the difference, if any, been recovered by the Audit Officer concerned? If so, when? If not, do Government propose to direct the Audit Officer to do the same now?

(*d*) Is it a fact that the inspection which Mr. Strong made at Jalpaiguri on his way to Kalimpong, where he recessed for a month, is the only inspection which he has made during the first 8 months of the current financial year, although he has got to inspect about 40 offices both in Calcutta and in the mofussil in course of one financial year?

(*e*) Will Government be pleased to state whether mere intimation of change of intention on the part of the Commissioner, as referred to in answer to part (*a*) of the question (No. 109 of 21st September, 1931, Council of State referred to above) was sufficient to justify his going to recess, or whether previous permission of the Central Board of Revenue was necessary? If permission was necessary, was such permission asked for and given, and is it on record? Was necessary intimation in respect of this recess given to the Audit Officer, as contemplated in Item No. 4 (iii) of the Government of India's orders under S. R. 129 (P. & T. Compilations)?

The Honourable Sir George Schuster: (*a*), (*b*) and (c). The whole of this question is based on an erroneous assumption, namely, that Mr. Strong visited Kalimpong on recess. The issues raised do not therefore arise.

(*d*) Yes. These inspections are usually made in the cold weather. The Commissioner started on a tour inspection in December 1931, but had to return to Calcutta on urgent official business, after inspecting Khulna and Backerganj.

(*e*) Mr. Strong actually took his recess in October after obtaining the Board's approval. He also informed the Audit Officer.

INSPECTIONS MADE BY MR. F. W. STRONG, COMMISSIONER OF INCOME-TAX, BENGAL.

16. **Mr. S. C. Mitra:** Will Government be pleased to place on the table a statement showing the number of inspections, *year by year*, and *office by office*, made by Mr. F. W. Strong, Commissioner of Income tax, Bengal, during his term of office, the inspections made by Mr. Graham during the periods Mr. Strong was on leave being included and indicated as such, and also the inspections made from records called for from some Calcutta Districts and not by personally visiting them being also clearly pointed out?

The Honourable Sir George Schuster: A statement is laid on the table.

Office inspections made by Mr. F. W. Strong, I.C.S., Commissioner of Income-tax, Bengal, during the year 1926-27.

Calcutta District No. II (1). Calcutta District No. II (2). Calcutta District No. VI. Calcutta Companies.	Detailed Inspections.
Dacca, Mymensingh, Backergunj, Chittagong, Tippera, Howrah, Hooghly, Burdwan-Birbhum, Midnapore-Bankura, Murshidabad-Nadia. Rajshahi-Pabna, Jalpaiguri-Darjeeling.	Detailed Inspections.

Mr. Strong believes that he visited various other Calcutta Offices to inspect progress of assessment work but brief notes that may have been recorded have not been preserved.

Office inspections made by Mr. F. W. Strong, I.C.S., and Mr. H. Graham, I.C.S., Commissioner of Income-tax, Bengal, during the year 1927-28.

Mr. F. W. Strong, I.C.S., was on leave for 5 months and 29 days with effect from 1st April 1927.

Detailed Inspections.

Jalpaiguri-Darjeeling, Dinajpur-Malda, Faridpur, Hooghly, Midnapore-Bankura, Burdwan-Birbhum, Murshidabad-Nadia, Khulna-Jessore, Rangpur-Bogra, Rajshahi-Pabna, Dacca, Mymensingh, Tippera-Noakhali. Chittagong, Backergunj.	Inspections of these offices were done by Mr. H. Graham, I.C.S., Offg. Commissioner.

Mr. Strong visited the Calcutta districts in the cold weather with the particular object of inspecting progress of assessment work and brief inspection notes were recorded.

Office inspections made by Mr. F. W. Strong, I.C.S., Commissioner of Income-tax, Bengal, during the year 1928-29.

Calcutta District No. IV (1). Calcutta District No. IV (2). Calcutta District No. V. Calcutta District No. V-A. Calcutta District No. VI.	Detailed inspections.
Calcutta District No. II (1). Calcutta District No. II (2).	Records inspection.
Midnapore-Bankura. Burdwan-Birbhum, Hooghly, Howrah, Khulna-Jessore, Murshidabad-Nadia, Dacca, Mymensingh, Backergunj, Chittagong, Tippera-Noakhali, Jalpaiguri-Darjeeling, Faridpur, Dinajpur-Malda. Rangpur-Bogra, 24-Parganas,	Detailed inspections.

As usual Mr. Strong visited the Calcutta offices in the cold weather and recorded brief notes on progress of assessment work.

Office inspections made by Mr. F. W. Strong, I.C.S., Commissioner of Income-tax, Bengal, during the year 1929-30.

Records Inspections.

Companies District I.
Companies District II.
Calcutta District I (1).
Calcutta District I (2).
Calcutta District II (1).
Calcutta District, II (2).
Calcutta District III (1).
Calcutta District IV (2).
Calcutta District IV (3).
Calcutta District V.
Calcutta District VI.

Detailed Inspections.

Burdwan-Birbhum.
Murshidabad-Nadia,
Midnapore-Bankura,
Khulna-Jessore,
Jalpaiguri-Darjeeling,
Dinajpur-Malda,
Rangpur-Bogra,
Rajshahi-Pabna,
Faridpur,
Dacca,
Mymensingh,
Backergunj,
Chittagong,
Tippera-Noakhali,

As usual Mr. Strong visited the Calcutta offices in the cold weather and recorded brief notes on progress of assessment work.

Office inspections made by Mr. F. W. Strong, I.C.S., and Mr. H. Graham, I.C.S., Commissioners of Income-tax, Bengal, during the year 1930-31.

Mr. F. W. Strong, I.C.S., was on leave with effect from 22nd April 1930 for 6 months and 8 days

Detailed Inspections.

Jalpaiguri-Darjeeling, } Inspections made by Mr. H. Graham, I.C.S.,
Khulna-Jessore, }

Chittagong, }
Mymensingh, }
Dacca, }
Backergunj, }
Tippera-Noakhali, } Inspected by Mr. F. W. Strong, I.C.S.,
Burdwan-Birbhum, }
Midnapore-Bankura, }
Murshidabad-Nadia, }
Hoogly, }
Rajshahi-Pabna, }
Rangpur-Bogra. }

As usual Mr. Strong visited the Calcutta districts in the cold weather and recorded brief notes on progress of assessments, etc.

Inspections made by Mr. F. W. Strong, I.C.S., Commissioner of Income-tax, Bengal, during the year 1931-32, up till now.

Records Inspections.

Calcutta District No. I (1).
Calcutta District No. I (2).
Calcutta District No. II (1).
Calcutta District No. II (2).
Calcutta District No. III (1).
Calcutta District No. III (2).
Calcutta District No. IV (1).
Calcutta District No. IV (2).
Calcutta District No. IV (3).
Calcutta District No. V.
Calcutta District No. VI.

Detailed Inspections.

Jalpaiguri-Darjeeling,
Khulna-Jessore,
Backergunj.

OFFICE HOUSE KEPT BY MR. F. W. STRONG, COMMISSIONER OF INCOME-TAX, BENGAL.

17. **Mr. S. C. Mitra:** (*a*) Is it a fact that the income from Calcutta income-tax offices forms the bulk of income-tax revenue from Bengal? Is it a fact that the Income-tax Commissioner makes less inspections in Calcutta offices than in the mofussil offices? If so, will Government please state the reason?

(*b*) Is it a fact that the Commissioner leaves office generally at 1-30 P.M. and therefore does not get sufficient time to inspect Calcutta offices even as often as he inspects the mofussil offices, and that he also leaves out large arrears in work?

(*c*) Will Government be pleased to verify the fact that all former Commissioners of Income-tax, Bengal, including the Honourable Mr. Prentice had to work in office fully six hours a day, if not more, to cope with the work, and do Government propose to ask Mr. Strong to follow suit, if necessary?

(*d*) Is it a fact that Mr. Strong is a semi-invalid and cannot sit in office beyond lunch hours?

The Honourable Sir George Schuster: (*a*) The bulk of the revenue from taxes on income in Bengal is, no doubt, derived from Calcutta. As requested by the Honourable Member in another question, I have laid on the table a statement giving full details of the inspections made by the Commissioner of Income-tax, Bengal, from 1926-27 up to 1931-32, inclusive.

(*b*) I am informed that during the hot weather and the rains, the Commissioner on occasions works at home after lunch when the state of business is not such as to require his presence in office. I am satisfied that there are not large arrears of work in the Commissioner's office, and I must emphatically repudiate the implication contained in the question that the present Commissioner is not adequately discharging his duties.

(*c*) No further enquiries appear to be necessary.

(*d*) No.

RECRUITMENTS IN THE OFFICE OF THE DEPUTY ACCOUNTANT GENERAL, POSTS AND TELEGRAPHS.

18. **Mr. S. C. Mitra:** (*a*) Is it a fact that in December, 1930, 32 men in the office of the Deputy Accountant General, Posts and Telegraphs, Calcutta, were confirmed in the Upper Division Scale of Rs. 60—230, out of whom 17 men were from the temporary list, recruited in 1926-27 and 15 were from the Lower Division clerks who passed the departmental examination?

(*b*) Is it a fact those 17 men were confirmed on the score of having completed 3 years' service as required by the Accountant General, Posts and Telegraphs' order of November, 1930?

(*c*) Is it a fact that after these men had been confirmed, order was issued to reserve 16 posts exclusively for the minority communities for compensating past inequalities of communal position and as such 16 men of the minority communities, who were very junior and had a few years'

service, were placed above the men who had been recruited prior to their admission and who had already 3 to 4 years' continuous service and were recruited in the ratio of 2: 1, and were waiting for confirmation?

(*d*) Is it a fact that as duly qualified recruits from the minority communities (as required by the Manual of Standing Order of the Office of the Deputy Accountant General, Posts and Telegraphs, Calcutta, *viz.*, Honours Graduates or M. As.) were not available, no men of the minority communities were admitted when these 17 men from the majority community were admitted into the department in 1926-27 and subsequently confirmed?

(*e*) Is it a fact that when the order was received for recruiting from the minority communities men with minimum qualifications of graduates, the standard ratio of temporary hands in the office, *viz.*, 2: 1 was being strictly maintained?

(*f*) Will Government kindly state:

(i) why adjustment of past inequalities is at all necessary as the ratio of 2:1 is being rigidly maintained;

(ii) if Government have considered the desirability of keeping future vacancies reserved and recruiting men from the minority community to the extent of the number required in the future vacancies, officiating or permanent, thus not affecting the present position of recruits who have been recruited already at the ratio of 2: 1; and

(iii) why 16 posts were ordered to be reserved in adjustment instead of 8, as the number of men made permanent in 1930 was 17 and not 32, 15 men representing departmental promotions?

The Honourable Sir George Schuster: Enquiry is being made and a reply will be sent to the Honourable Member in due course.

QUARTERS IN THE ARCADE BUILDING OF THE CALCUTTA GENERAL POST OFFICE.

19. Mr. S. C. Mitra: (*a*) Will Government be pleased to state if it is a fact that there are three quarters on the top floor of the Arcade Building of the Calcutta General Post Office?

(*b*) Is it a fact that one of the quarters has been allotted to the Presidency and another two to Asst. Postmasters?

(*c*) Is it a fact that one of the quarters which was recently in October last occupied by Mrs. I. Palmer, Asst. Postmistress, is being occupied by the present Postmaster General?

(*d*) If the reply to part (*c*) be in the affirmative, will Government please state from what date he has occupied the quarter?

(*e*) Is it a fact that the Postmaster General, Bengal and Assam Circle, gets house rent allowance?

(*f*) If so, will Government please state (i) whether he has drawn any house rent during the period when he has been occupying the Assistant Presidency Postmaster's quarters and (ii) whether he has paid any house rent for the quarter in question?

Mr. T. Ryan: (*a*) Yes.

(*b*) No. The actual allotment is—one quarter to the Presidency Postmaster, one to the Deputy Presidency Postmaster and the third to an Assistant Presidency Postmaster.

(*c*) The quarters occupied by Mrs. Palmer, Assistant Presidency Postmistress, were vacated by her at the end of July, 1931, and then lay empty. The Postmaster-General, who was unable to secure suitable accommodation elsewhere, occupied the quarters in question as a temporary measure.

(*d*) From the 13th (afternoon) to the 20th December, 1931 (forenoon).

(*e*) No.

(*f*) (i) Does not arise.

(ii) Yes.

RETRENCHMENTS IN THE POSTAL SERVICE.

20. Mr. S. C. Mitra: (*a*) Will Government please state as to what action has been taken (i) to abolish the posts of Assistant Directors General, (ii) to reduce the number of Deputy Postmasters General, Telegraph Traffic, (iii) to retrench 32 Superintendents of Post Offices, and (iv) to abolish the Dacca and Shillong Ranges, as recommended by the Retrenchment Committee and accepted by the Government of India?

(*b*) Is it a fact that not a single post mentioned above has yet been retrenched? If not, why not?

Mr. T. Ryan: (*a*) (i). Five posts of Assistant Directors-General have been abolished and three are being kept unfilled and will be abolished as soon as the officers now holding a lien upon them can be provided for elsewhere or retire.

(ii) One post has been abolished and four are being kept unfilled and will be abolished as soon as the officials now holding a lien upon them can be provided for elsewhere or retire. The question of reducing two more posts is under consideration.

(iii) Five posts have been abolished and the question of the abolition of the remaining twenty-seven is being pursued.

(*iv*) The matter is under consideration.

(*b*) No.

REDUCTION OF SELECTION GRADE POSTS IN THE BENGAL AND ASSAM POSTAL CIRCLE.

21. Mr. S. C. Mitra: (*a*) Is it a fact that the Director General of Posts and Telegraphs has decided to replace 146 selection grade appointments of the Bengal and Assam Circle, by time-scale clerks?

(*b*) Will Government be pleased to state what is the total number of selection grade posts in that Circle and what percentage will be reduced?

(*c*) Is it a fact that the Retrenchment Committee recommended 8 per cent. selection grade posts for the Post Office and R. M. S.?

(*d*) If so, what is the cause of such drastic reduction?

Mr. T. Ryan: (*a*) No.

(*b*) The total number of non-gazetted selection grade posts is 341. No decision has yet been reached as to the number of such posts which can be reduced.

(*c*) Yes.

(*d*) Does not arise in view of the replies to (*a*) and (*b*) above.

APPOINTMENT OF HEAD MISTRESS OF THE MUNICIPAL CITY GIRLS' SCHOOL, AJMER.

22. **Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please enquire and state whether it is a fact (1) that the Municipal City Girls' School, Ajmer, is a vernacular school, where English is not taught; (2) that an undergraduate lady has been recently appointed as the Head Mistress of the said school; (3) that the said Head Mistress is an untrained teacher; and (4) that the said Head Mistress does not hold any vernacular teachers' certificate?

(*b*) If what are stated at part (*a*) above are facts, will Government please enquire and state why the said lady teacher has been appointed as Head Mistress of the said school in spite of her not possessing such qualifications as are necessary for the post she holds?

(*c*) Is it a fact that the said Head Mistress has been given a starting salary of Rs. 60 per mensem? If so, why has such pay been given her as is higher than the usual starting pay of the Head Mistress of a vernacular school?

(*d*) Is it a fact that the post held by the said Head Mistress is a newly created post? If so, why has this new post been created in this time of financial distress?

(*e*) Is it a fact that the assistant mistresses of the said school have not been given the annual increments due to them in this financial year? If so, why?

Sir Frank Noyce: The information asked for in questions Nos. 22—26 and 28 is not available at present, but it is being collected and will be supplied as soon as possible.

ALLEGED LACK OF QUALIFICATION OF A TEACHER IN THE MUNICIPAL BOARD CITY BOYS' SCHOOL, AJMER.

†23. **Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please enquire and state whether it is a fact that only vernaculars are being taught in the Government aided Municipal Board City Boys' School, Ajmer, and not English?

(*b*) Will Government please enquire and state whether it is a fact (1) that a matriculate, having no vernacular teachers' certificate, is working on the teaching staff of the said school; (2) that in each of the last two years only one boy, out of 30 taught by the said teacher, has been found fit for promotion; and (3) that the Head Master of the said school brought the above fact to the notice of the managing committee of the said school, but no action was taken by the said committee to remedy the defective teaching responsible for the failure of 29 out of 30 boys?

(*c*) If what are stated at part (*b*) above are facts, what steps do Government propose to take in the matter in the interest of sound education and proper use of public funds?

†For answer to this question *see* answer to question No. 22.

AMOUNT OF GRANT-IN-AID MADE TO THE EDUCATION FUND OF THE MUNICIPAL BOARD, AJMER.

†24. **Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state the annual amount of Government grant-in-aid to the Education Fund of the Municipal Board, Ajmer, and the proportion which it bears to the total annual expenditure estimated to be incurred in the current financial year for educational purposes by the Municipal Board, Ajmer?

(*b*) Will Government please state whether they are aware that the money appropriated for education by the said Municipal Board is not being economically spent? If so, what steps do Government propose to take in the matter?

SCHOLARSHIPS AWARDED AT THE GOVERNMENT CENTRAL GIRLS' SCHOOL, AJMER.

†25. **Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please enquire and state if the scholarships from Government funds allotted to the Government Central Girls' School, Ajmer, are awarded on the basis of the scholarship-holders' poverty or educational efficiency or both?

(*b*) Is it a fact that a daughter of the Assistant Superintendent of Education, Ajmer-Merwara, has been receiving one of the scholarships allotted to the said school? If so, on what basis has the said scholarship been awarded her?

(*c*) In case the scholarship referred to in part (*b*) above has been awarded to the daughter of the Assistant Superintendent of Education, Ajmer-Merwara, will Government please enquire and state her position in the order of merit in her class in the last annual examination?

(*d*) What is the total amount of money annually spent from Government funds in awarding scholarships to the pupils of the Government Central Girls' School, Ajmer?

(*e*) Will Government please place on the table of the House a statement relating to the Government Central Girls' School, Ajmer, showing (1) the total number of pupils, (2) the number of Christian pupils, (3) the number of non-Christian pupils, (4) the total number of scholarship-holders, (5) the number of Christian scholarship-holders, and (6) the number of non-Christian scholarship-holders?

(*f*) Are Government aware that all or almost all the Christian pupils of the said school are at present scholarship-holders, whereas a far smaller proportion of non-Christian pupils is receiving scholarships? If so, why?

(*g*) Is it a fact that the Head Mistress of the said school, and the Assistant Superintendent of Female Education who inspects this school, and the Superintendent of Education who is in control of this school, are all Christians?

ALLEGED GRANT OF CERTIFICATES TO INELIGIBLE CANDIDATES TO APPEA AT EXAMINATIONS IN AJMER.

†26. **Khan Bahadur Haji Wajihuddin:** (*a*) Is it a fact that during the last five years complaints have been made from time to time, regarding a certain subordinate of the Superintendent of Education, Ajmer-Merwara's signing and countersigning false certificates with a view to enable ineligible candidates to appear at certain examinations?

†For answer to this question, *see* answer to question No. 22.

(*b*) Is it a fact that, after the complaints referred to in part (*a*) above had been made the employee in question, by countersigning a false certificate, enabled one Munni, a girl student of the Government Central Girls' School, Ajmer, to appear as a private candidate for the Girls' Vernacular Lower Middle Examination of 1931, for which she was not eligible as a private candidate in consequence of her being a regular student of the Government Central Girls' School, Ajmer, in the academic year 1930-31?

(*c*) Is it a fact that, after the complaints referred to in part (*a*) above had been made, the said person has signed or countersigned a false certificate to enable an unmarried girl named Shyam Devi, daughter of Mr. Sanwal Das, barber of Ajmer, to appear as a private candidate for the High School Examination to be held in 1932 by the Rajputana, Ajmer-Merwara, Central India, and Gwalior Board, for which she is ineligible as a private candidate, because she has passed her 8th class from the Government Central Girls' School, Ajmer, in 1931 and, consequently, has not completed a term of 18 months after passing the 8th class examination as prescribed by the said Board?

(*d*) If what are stated at parts (*a*) to (c) above are facts, what steps do Government propose to take to put a stop to the illegal practice under reference?

SUGGESTIONS FOR RETRENCHMENT IN THE AJMER-MERWARA EDUCATION DEPARTMENT.

27. **Khan Bahadur Haji Wajihuddin:** Will Government please enquire and state whether it is a fact that Government have received a letter dated the 5th October, 1931, on the subject of "Suggestions for Retrenchment in Ajmer-Merwara, Education Department" sent by Swami B. Anand of Ajmer? If so, will Government please state what steps have been taken on the contents of the said letter? If not, why not?

Sir Frank Noyce: The letter referred to by the Honourable Member has been received and is under consideration.

TIME TABLE OF CLASSES AT THE GOVERNMENT HIGH SCHOOL, AJMER.

†28. **Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please enquire and state whether it is a fact that the first and second year special classes opened for the Vernacular Final Examination-passed students in the Government High School, Ajmer, are taught only for 27 periods out of 42 periods per week and there is no arrangement for their teaching like the other classes in the said school for the remaining 15 periods per week?

(*b*) If what are stated in part (*a*) above are facts, what steps do Government propose to take to set right the matter? If so, when? If not, why not?

(*c*) Will Government please place on the table of the House a copy of the time table of the weekly teaching of all the classes of the said school for 1931-32 with the names of the teachers who teach the classes in each period?

†For answer to this question, *see* answer to question No. 22.

(*d*) Is it a fact that the first and second periods of the first year special class and the whole of the 4th and most of the 7th and 8th periods of the second year special class are vacant and no teacher is directed to teach the boys regularly in those periods? If so, who is responsible for this neglect?

(*e*) Has the Superintendent of Education, Ajmer-Merwara, detected this defect and passed any remarks on the matter referred to in part (*d*) above in his inspection report? If so, when and what? If not, why not?

DISPUTES BETWEEN THE ISTIMRARDAR OF PISANGAN AND HIS TENANTS.

29. **Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please enquire and state whether it is a fact (1) that the Istimrardar of Pisangan has informed the Commissioner, Ajmer-Merwara, that he has compromised finally with his tenants and all the disputes with them have been settled, (2) that the Tahsildar of Ajmer was informed by the said Istimrardar of the said compromise and settlement on his investigation, and (3) that a case against the said tenants by the said Istimrardar is still pending in the Court of the Sub-Judge, Ajmer?

(*b*) If what are stated in part (*a*) above are facts, what steps do Government propose to take in the matter?

Sir Frank Noyce: (*a*) (1) In July, 1931, the Istimrardar of Pisangan informed the Commissioner that for the time being harmony had been restored between himself and his tenants. The Istimrardar's assurance was not interpreted to mean that any final settlement of all outstanding disputes had been arrived at.

(2) It is not likely that anything the Istimrardar may have said to the Tahsildar of Ajmer created the impression in the latter's mind that a final compromise and settlement had been arranged.

(3) A suit regarding grazing rights in the Pisangan estate has been instituted in the Court of the Sub-Judge, Ajmer, by the Istimrardar. One of the points at issue is understood to be the tenant's assertion that the matter has already been settled by compromise.

(*b*) The matter is *sub-judice* and must be left to the decision of the Court.

GOVERNMENT OFFICERS AND STAFF RETRENCHED.

30. **Mr. S. C. Mitra:** Will Government be pleased to lay on the table a statement showing under the following heads details of persons retrenched under the recent retrenchment campaign:

(1) the posts of superior gazetted officers with their names, pay and length of service;

(2) posts of other gazetted officers with their names, pay and length of service;

(3) posts of other officers under central services class IV with their names, pay and length of service;

(4) posts of subordinate staff with names, pay and length of service of each; and

(5) number of posts of inferior servants?

The Honourable Sir George Schuster: Government regret that they cannot afford, in the interests of economy, to collect, and publish the voluminous lists asked for by the Honourable Member, but statements of all posts retrenched are being compiled and will be published in due course.

RECOMMENDATIONS OF RETRENCHMENT COMMITTEES.

31. **Mr. S. C. Mitra:** Will Government be pleased to lay on the table a statement giving the following details:

(1) the recommendations of the different Retrenchment Advisory Committees which have been given effect to *in toto*;

(2) recommendations of such committees that have been rejected altogether with reasons for such rejection;

(3) recommendations which have been partially given effect to with reasons for not accepting *in toto*; and

(4) recommendations that are still under consideration?

The Honourable Sir George Schuster: I would invite the Honourable Member's attention to the answer I have just given to a similar question by Mr. Rahimtoola M. Chinoy.

APPLICATION OF THE TEN PER CENT. CUT.

32. **Kunwar Raghubir Singh:** To how many departments has the 10 per cent. cut been applied? Why not to other departments as well?

The Honourable Sir James Crerar: The reply to the first part of the question is—all departments The second part does not arise.

PANEL OF CHAIRMEN.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I have to inform the House that under rule 3(1) of the Indian Legislative Rules I nominate Sir Hari Singh Gour, Mr. Arthur Moore, Sir Abdur Rahim and Sir Cowasji Jehangir on the Panel of Chairmen for the current session.

ELECTION OF A MEMBER TO THE COUNCIL OF THE INDIAN INSTITUTE OF SCIENCE, BANGALORE.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Honourable Members will now proceed to elect a Member to represent the Assembly on the Council of the Indian Institute of Science, Bangalore. There are two candidates whose names are printed on the ballot papers which will now be supplied to Honourable Members in the order in which I call them.

(The ballot was then taken.)

Mr. Abdul Matin Chaudhury: Some of the Members who were absent when their names were called have now come into the House. Can they vote now?

Mr. President (The Honoruable Sir Ibrahim Rahimtoola): Those Honourable Members whose names were called can exercise their right of voting till the ballot is closed.

REPORT OF THE PUBLIC ACCOUNTS COMMITTEE.

The Honourable Sir George Schuster (Finance Member): Sir, I beg to present the Report of the Committee on Public Accounts for the year 1929-30.

COMPOSITION OF THE COMMITTEE ON PUBLIC ACCOUNTS WHICH MET IN 1931 (*VIDE* RULE 51 OF THE INDIAN LEGISLATIVE RULES).

Chairman.

1. The Honourable Sir GEORGE SCHUSTER, Finance Member.

Elected Members.	*Date of election.*
2. Mr. S. C. MITRA	16th March, 1931.
3. Kunwar Hajee ISMAIL ALIKHAN	Do.
4. Sardar SANT SINGH	Do.
5. Mr. T. N. RAMAKRISHNA REDDI	Do.
6. Mr. B. DAS	Do.
7. Mr. ABDUL MATIN CHAUDHURY	Do.
8. Rao Bahadur M. C. RAJAH	Do.
9. Mr. MUHAMMAD ANWAR-UL-AZIM	Do.
Nominated Members.	*Date of nomination.*
10. Maulvi Sir MUHAMMAD YAKUB	21st March, 1931.
11. Mr. J. RAMSAY SCOTT	Do.
12. Dr. R. D. DALAL	23rd September, 1931.

REPORT OF THE PUBLIC ACCOUNTS COMMITTEE ON THE ACCOUNTS OF 1929-30.

I.—EXCESS VOTES.

General Summary.—The following table compares the total grants voted by the Legislative Assembly with the total expenditure against those grants:—

(In lakhs of rupees.)

—	Original grant.	Supplementary grant.	Final grant.	Actual expenditure.
Expenditure charged to Revenue	1,10,66	4,61	1,15,27	1,12,93
Expenditure charged to Capital	36,03	18	36,21	32,46
Total Expenditure	1,46,69	4,79	1,51,48	1,45,39
Disbursements of Loans and Advances	15,01	82	15,83	15,87
Grand Total	1,61,70	5,61	1,67,31	1,61,26

[Sir George Schuster.]

2. The following table compares the non-voted appropriations sanctioned by the Government of India with the total expenditure against such appropriations :—

(In lakhs of rupees.)

——	Original appropriation.	Supplementary appropriation.	Final appropriation.	Actual expenditure.
Expenditure charged to Revenue . .	1,16,66	2,09	1,18,75	1,17,82
Expenditure charged to Capital . .	15	2	17	21
Total Expenditure .	1,16,81	2,11	1,18,92	1,18,03

3. The position regarding total expenditure, voted and non-voted, is as follows :—

(In lakhs of rupees.)

——	Original grant.	Final grant.	Actual expenditure.
Expenditure charged to Revenue	2,27,32	2,34,02	2,30,75
Expenditure charged to Capital	36,18	36,38	32,67
Total Expenditure .	2,63,50	2,70,40	2,63,42
Disbursement of Loans and Advances . . .	15,01	15,83	15,87
Grand Total .	2,78,51	2,86,23	2,79,29

4. *Savings.*—There was thus a saving of 6,94 lakhs or 2·4 *per cent.* of the final grant. This percentage compares as follows with the results of previous years—

——	1925-26.	1926-27.	1927-28.	1928-29.	1929-30.
Expenditure charged to Revenue .	3·0	2·9	·6	1·1	1·4
Expenditure charged to Capital . .	15·5	5·8	3·4	3·8	10·2
Disbursements of Loans and Advances .	36·7	16·1	·1	—·3	—·3
Combined percentage .	6·7	3·8	1·0	1·4	2·4

It is to be noted, however, that the saving under capital expenditure was particularly large. For this the Railways were mainly responsible, and the result thus attained in their case was due to the deliberate policy of postponing new projects which had to be adopted by the Railway Board owing to the general financial situation and the necessity for restriction of borrowing by the Government of India.

5. The following table compares the percentage of savings under voted grants for expenditure proper (*i.e.*, exclusive of disbursements of loans and advances) with that of savings in non-voted appropriations :—

Year.	Voted.	Non-voted.
1925-26	7·8	1·4
1926-27	5·2	1·0
1927-28	—·4	2·8
1928-29	2·4	·3
1929-30	4·0	·8

If it is remembered that out of a total saving of 609 lakhs under voted expenditure a saving of nearly 2 crores occurred under capital expenditure in circumstances explained in the preceding paragraph, it may be stated that the steady and continuous improvement in estimating noticed in the last year's report was maintained during the year under review.

6. *Excesses.*—In the following cases the actual expenditure exceeds the voted grants and an excess vote of the Assembly is accordingly required :—

Item No.	Number of Grant.	Grant.	Amount voted by the Assembly.	Actual expenditure.	Excess.
		Civil.	Rs.	Rs.	Rs.
1	22	Irrigation, Navigation, etc. .	26,44,000	29,65,754	3,21,754
2	25	Interest on Ordinary Debt, etc.	1,41,77,000	2,20,75,225	78,98,225
3	32	Public Service Commission .	86,000	86,411	411
4	35	Finance Department. .	10,85,000	10,87,973	2,973
5	43	Administration of Justice .	55,000	55,644	644
6	46	Lighthouses and Lightships .	10,90,000	13,68,423	2,78,423
7	70	Mint	27,18,000	28,21,746	1,03,746
8	81	Rajputana	5,43,000	5,44,199	1,199
9	93	Capital outlay on Lighthouses and Lightships . .	8,000	12,821	4,821
10	95	Delhi Capital Outlay . .	1,31,58,000	1,32,80,295	1,22,295
11	97	Loans and Advances bearing Interest	14,92,41,000	15,01,36,936	8,95,936
		Posts and Telegraphs.			
12	23	Indian Posts and Telegraphs Department . . .	11,13,29,000	11,31,03,774	17,74,774
		Railways.			
13	1	Revenue—Railway Board .	12,61,000	12,63,196	2,196
14	4	Revenue—Working expenses —Administration . .	13,50,25,000	13,62,87,820	12,62,820
15	10	Revenue—Appropriation from Depreciation Fund . .	11,50,00,000	11,76,18,314	26,18,314
16	13	Revenue—Appropriation from the Reserve Fund . .	86,30,000	2,08,21,706	1,21,91,706

[Sir George Schuster.]

7. We offer the following comments in regard to the various excesses :—

Item 1.—The excess occurred in the North-West Frontier Province and was due to the fact that under a misapprehension the *net* expenditure only (inclusive of anticipated recoveries) was provided for in the original demand instead of the *gross* expenditure.

Item 2.—The excess mainly occurred under the Sub-head "Other appropriations" for reduction or avoidance of debt. There was a saving under the non-voted section of this sub-head due to the non-utilization of the provision for redemption of India's outstanding liability in respect of the British 5 per cent. War Loan, 1929—47. As the total provision for reduction or avoidance of debt is fixed in accordance with the Government of India, Finance Department, Resolution of the 9th December, 1924, the saving in the non-voted section of the grant led to a corresponding excess in the voted section.

Item 3.—The excess is trifling being less than ½ of one per cent. of the grant.

Item 4.—Although there is an excess over the grant, both voted and non-voted, the Accountant General has observed that the estimating and control represent, on the whole, an improvement over those of previous years.

Item 5.—The excess represents the leave salary of an officer on foreign service debited through the Exchange Accounts for adjustment towards the close of the year, when it was too late to obtain additional grant.

Item 6.—The original amount provided for transfer to the General Reserve Fund of Lighthouses and Lightships was Rs. 1,26,800. The actual surplus realized and transferred during the year was Rs. 5,57,518, the excess being due to an increase in receipts and some decrease in expenditure. The year 1929-30 was the first year in which the Lighthouse administration was centralised and we were informed that it was an extremely difficult task to make a correct estimate of revenue.

Item 7.—This is the first year, in recent years, in which an excess has occurred in the voted grant. Heavier receipts of uncurrent silver coins in the Bombay Mint led to an increase in the loss on coinage. The loss represents the difference between the face value of the coins and their bullion value on the basis of one rupee per *tola*. The supplementary grant obtained in February 1930 proved to be inadequate as receipts of coin in February and March were unexpectedly large.

Item 8.—The excess is trifling, being less than ¼th of one per cent. of the grant.

Item 9.—As in the case of revenue expenditure, estimating and control of capital expenditure on Lighthouses and Lightships were rendered difficult by the fact that the administration of the subject was taken over by the Government of India for the first time in 1929-30.

Item 10.—The excess over the voted grant was approximately ·9 per cent., and the Accountant General, Central Revenues, has observed that, compared with the three preceding years when there was a saving of 43, 40 and 17 per cent., respectively, the control over expenditure during the year under review shows a considerable improvement. The excess was due to the fact that the lump deduction of Rs. 15,53,500 for probable savings was not fully realized.

Item 11.—The excess was mainly due to the transactions of the Provincial Loans Fund. Smaller repayment by one province towards the close of the year and over-drafts in two other provinces which had to be converted into regular advances in the accounts of the year contributed to the result.

Item 12.—The excess was chiefly due to an under-estimate of the requirements under "Samps, Post cards, etc." and under "Stationery and Printing" and to an inadequate appreciation of the effect of revisions of pay and other concessions sanctioned in recent years. We are assured that estimating has now considerably improved and that sufficient experience has now been gained to make it possible for the estimating officers to make a fairly accurate allowance for the effect of revisions of pay and other concessions.

Item 13.—The excess is trifling, being about 1/6th of one per cent. of the grant.

Item 14.—The largest part of the excess occurred on the Great Indian Peninsula Railway and was mostly due to extra expenditure incurred on account of the strike on that Railway. The Director of Railway Audit has remarked that the budgeting under this grant has, on the whole, been very close.

Item 15.—As pointed out by the Director of Railway Audit, there have been excesses for three consecutive years under this grant. Despite the fact that the excess this year was due to a special adjustment on account of write-back of credit for

released materials, the Director has remarked that the successive excesses for three years are a "blemish" in estimating. We would invite the attention of the Railway Board to these remarks and hope for improvement in future years.

Item 16.—When the supplementary grant under this head was applied for in February 1930, the weekly railway earnings showed an upward tendency and it was hoped that it would be possible to pay the full contributions to general revenues by drawing not more than 86 lakhs from the Reserve. But the hopes of permanent improvement were not realised, partly due to the world depression and partly due to the strike in the Great Indian Peninsula Railway, with the result that a withdrawal of about 208 lakhs from the Reserve was rendered necessary.

8. The total number of voted grants in which there has been an excess during the year compares as follows with the corresponding numbers in the last three years :—

1926-27	15
1927-28	13
1928-29	11
1929-30	16

If allowance be made for the fact that 2 out of the 16 items, though technically excesses in expenditure, were due to short fall in revenue, and that another item was due to recoveries being taken in deduction of the original demand but not taken as a deduction from actual expenditure in the Appropriation Accounts, it may be stated that the position during the year does not compare unfavourably with that in recent years. We recommend that the Assembly assent to the excess grants detailed in paragraph 6 above, which the Governor General in Council will place before them in due course.

9. *Re-appropriations, etc.*—Rule 52 (2) of the Indian Legislative Rules requires that we should bring to the notice of the Assembly every re-appropriation from one grant to another grant; every re-appropriation within a grant, which is not made in accordance with such rules as may be prescribed by the Finance Department; and all expenditure which the Finance Department have requested should be brought to the notice of the Assembly. We are glad to be able to report that there have been no re-appropriations falling under these categories during the year; nor have the Finance Department requested us to bring to the notice of the Assembly any particular item of expenditure.

II.—COMMENTS ON MATTERS OUTSTANDING FROM PREVIOUS REPORTS.

10. *Reviews of commercial undertakings—Civil Department.*—Our, predecessors rightly attached considerable importance to the question of obtaining more up-to-date reviews of Government commercial undertakings than those with which the Public Accounts Committee were furnished in the ordinary course, and their main objective was to arrive at a comparison of the results of a series of years including the audited figures of the year subsequent to the one which was normally under the Committee's scrutiny. So far as the Civil Department is concerned, the Director of Commercial Audit has, in addition to the Commercial Accounts Appendix to the Appropriation Accounts, furnished us with a summary of working results of a number of commercial concerns of the Government of India for the financial year 1930-31. We agree with the Auditor General that the form in which the Appendix has been produced on the present occasion has been considerably improved, one notable feature of the present Appendix being the inclusion of a number of financial reviews by the officers in administrative charge of the commercial concerns. We are glad to state that much has been done to meet the wishes of the Public Accounts Committee as expressed on previous occasions and we desire to place on record our appreciation of the very useful work done by the Director of Commercial Audit in this matter. In view of the importance to the tax-payer of the introduction of proper commercial accounts in all the strictly commercial concerns of the Government and of the careful watching of results in these concerns, we recommend that proposals for retrenchment in connection with the Commercial Audit Department should be so adapted as to ensure that the continuance of the very useful work hitherto done by the Department in this regard, should not be jeopardised. We particularly desire that the Appendix to the Appropriation Accounts on commercial concerns should be continued in its present form, which should further be supplemented by a more up-to-date summary of working results such as that compiled and presented by the Director in the current year.

[Sir George Schuster.]

11. *Reviews of commercial undertakings—Railway Department.*—As regards Railways, the Public Accounts Committee in last year's Report recommended that the Railway Department should prepare "a simple form of report on the working of the Railways, summarising the reports of Agents, taking out the salient points therein, and bringing out the sort of features, to which the Chairman of a public Railway Company would call attention in his speech at the annual meeting of the shareholders". The Committee thought that "such a report might well be supplemented by simplified statistics on the one side and on the other by a note giving simple instructions as to how to interpret, and what points to look for in, Railway statistics". We observe that, although we have been supplied with supplementary statistics and an explanatory note (Appendix XXV) these are capable of improvement as pointed out below (paragraph 14), while our main requirement, namely, presentation of a general picture for all the Railways bringing out the points of real importance in their working, has not been met. In the absence of any general picture in each case, prepared so as to bring out the salient and important points we are inevitably forced to go into a large number of details, and minor cases of irregularities which, under existing arrangements, are presented to us in a disconnected fashion and not classified so as to illustrate any principle. We consider this wrong both from the point of view of the Public Accounts Committee and the Railways. While the Railway authorities, on the one hand, may not unreasonably—as is apparently the case—feel that neither the Assembly nor the Public Accounts Committee should attempt to interfere with the ordinary daily administration of a large commercial undertaking, the Committee, on the other hand, has a legitimate complaint in that it is not being presented with a clear and helpful picture which would enable it to concentrate on points on which representatives of the public have a right to interfere and ask for information. Our requirements in this connection have to be considered together with the manner in which the Appropriation Accounts are presented. On this latter point we have to record in a separate paragraph of this report (paragraph 25) our dissatisfaction with the manner of presentation for the year under review and that paragraph must be read together with these comments. We think it desirable to record at this stage somewhat fully our conception of the task which should be performed by the Public Accounts Committee in connection with the Railways and what it requires from the Railway authorities in order to enable them to perform this task.

12. According to our conception the task is of a two-fold nature :—

(*a*) To watch the general financial results of the working of the Railways.

(*b*) To see that public money voted for Railway expenditure is properly expended and accurately accounted for.

In order to perform part (*a*) of the task, an exhaustive and clear general review of the working of the Railways, on the lines described above, is required. The duty of compiling such a report properly belongs to the administrative officers of the Railways, *i.e.*, the Agents of the various Railway systems and the Chief Commissioner. In order to perform part (*b*) of the task, the Appropriation Accounts should be presented in an informative manner. The duty in this respect properly appertains to the Chief Accounting Officer, *viz.*, the Financial Commissioner. As already noted, we have dealt more fully with this in paragraph 25 of this report.

13. As an illustration of the sort of point which the Committee ought to watch in connection with part (*a*) of its task, we would refer to Statement A in the Auditor General's letter, which shows that the capital at charge at the close of the year 1924 was 595 crores and that at the end of 1931-32, according to budget estimates, 795 crores. It is vitally important that the representatives of the public should be able to form a view as to whether these 200 crores (or more properly 160 crores allowing for 40 crores which merely represented the gain on converting sterling expenditure at 1*s.* 6*d.* instead of 2*s.*) have been so invested as to produce an adequate financial return and as really to benefit India. We do not consider that the information now supplied to us is adequate to enable us to discharge this function. While we desire to record our appreciation of the reports on individual Railways which have been circulated to us this year and the note on the interpretation of railway statistics (Appendix XXV) attached to those reports, both of which are highly useful, we would like to point out that these reports on individual Railways do not give figures later than 1929-30, and that there is no clear summary of the railway results for India as a whole, putting together a combined picture, calling attention to the salient points, making comparisons between one Railway and another and generally pointing to the lessons to be drawn from the points brought out. Nor is there a general review of the progress of capital expenditure and of the results obtained from recent investments in railway extensions in which we are specially interested. It appears from our

examination of the Chief Commissioner of Railways that he had not fully understood what the Committee wanted last year, but now that this has been made clear we understand that he will do his utmost to meet our wishes in future.

14. As regards the precise points for improvement in the presentation of the reports and statistics (referred to in the preceding paragraph) we note the following. In the first place, we would like to have the reports on the working of the individual railway systems completed up to the end of the preceding financial year in the same way as the general review mentioned above. In the second place, we suggest that each of these reports on individual Railways should include, in addition to the information now given, a short summary note from each Agent giving an expression of his views and conclusions drawn from the actual results recorded. Thirdly, we have noted certain discrepancies between the figures given in these reports on individual Railways and those in Statement B of the Auditor General's letter, and we suggest that the figures in the Railway Board's notes should in future be prepared on the same basis as the Auditor General's statement.

15. *Reviews of commercial undertakings—Army Department.*—As regards trading accounts on the military side, the Public Accounts Committee last year proposed to await the result of the joint examination by the Directors of Army and Commercial Audit as to the necessity for preparation and publication of such trading accounts for the Army, Ordnance and Clothing Factories and for other manufacturing or producing concerns of the Army. We have been furnished with a Memorandum on the subject by the Director of Army Audit showing the results of the joint examination by him and the Director of Commercial Audit (*vide* Annexure A to Appendix XVIII). At the instance of the Military Accounts Committee, which considered the Military Appropriation Accounts, this Memorandum is being examined by the military authorities, the Military Accountant-General and the Financial Adviser, Military Finance. We prefer to await the views of the military authorities and the Military Accounts Committee before we make any specific recommendations, but we have no hesitation in endorsing the observations of the latter that, from the point of view of the Government and the tax-payer, it is of vital importance to ensure that the actual cost of production of articles manufactured by Government concerns is reasonable.

16. *Indian Stores Department.*—The question of making the Indian Stores Department self-supporting, which has for some years had the attention of the Public Accounts Committee, again requires notice in connection with the accounts of the year 1929-30. In pursuance of the previous recommendations we were furnished by the Chief Controller of Stores with a note on the separate exhibition of the expenditure of the commercial and non-commercial activities of the Department in consultation with the Audit Officer, Indian Stores Department, and the Director of Commercial Audit (*vide* Appendix XXIV). The profit and loss account of the Department for 1930-31 (Annexure B to Appendix XXIV), drawn up on the basis of the allocation of expenditure suggested in the Chief Controller's note, shows the loss on the commercial and non-commercial activities as about Rs. 6 lakhs and Rs. 3½ lakhs, respectively. We had no time to examine fully the basis of allocation of expenditure between the two classes of activities. We are further not in a position to judge how the recommendations of the Retrenchment Sub-Committee will affect the financial position of the Department as disclosed in the new form of profit and loss account. We note that the whole question of the present and future position of the Department is under investigation by the Retrenchment Sub-Committee. We, therefore, refrain from making any recommendation this year in regard to such matters as the adequacy of the present rate of commission charged by the Department, the relations between the Department and the two big purchasing Departments of the Government of India, namely, the Railways and the Army, etc., and shall await a full report next year on the subject in the light of the recommendations of the Retrenchment Sub-Committee. We request that this report should be accompanied by a statement showing the financial position of the commercial and non-commercial activities of the Department separately and for this purpose it is necessary that the Chief Controller's note (Appendix XXIV) referred to above, regarding allocation of expenditure should be carefully examined by the Finance Department in consultation with the Auditor General.

17. *Stores Accounting on the East Indian Railway.*—The Public Accounts Committee last year viewed with great concern the state of affairs in the Stores Accounts Section of the East Indian Railway and asked for an *interim* report to be submitted early in February 1931. The Controller of Railway Accounts furnished us with an *interim* report (Annexure A to Appendix XIX) on the 5th February 1931, which was followed by his final report (Annexure B to Appendix XIX) on the 20th June 1931. We are glad to note, on the testimony of the Director of Railway Audit, that the Controller

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has carried out his assurance to the last Public Accounts Committee, and has made the Stores Accounts of the Railway such that they can be described as giving a true and correct record of the stores transactions of the Railway. As pointed out by the Director, practical experience alone will afford a true test of the efficiency of the new organisation, but in order to ensure the success of the new system we asked for, and obtained, an assurance from the Financial Commissioner that there would not be any diminution of vigilance on the part of the Chief Accounts Officer. We wish further to stress the importance in this connection of continuity as well as efficiency of the staff employed in the Stores Accounts Section of the particular Railway.

18. We endorse the following observations of the Director of Railway Audit (*vide* Appendix XIX) on the lessons to be learnt from this unfortunate episode :—

> "The history of the East Indian Railway Stores accounting affords three important lessons, and, if these are kept in mind, there should be no recurrence of similar unfortunate episodes. In the first place, it is necessary that, when any big and new scheme which has an important effect on accounts is to be introduced, whether it be the amalgamation of two railways or the introduction of a machine system of accounting, it must be worked out carefully down to the smallest detail, if disorganisation and the consequent waste of Government money is not to result. In the second place, the maintenance of an up-to-date and standard nomenclature is the prime essential for the correct accounting of Stores transactions. Thirdly, when Stores accounts become disorganised or fall into arrears, accounting authorities must concentrate on removing the disorganisation, in the final event by heroic methods if others fail, before disorganisation becomes a chronic state; and it is essential that the higher controlling officers in the Railway Department should keep a constant watch on the state of the Stores accounts on the various railways."

We have specially requested the Financial Commissioner to address the Agents of all Railways in regard to this matter and to ask them to make a special record of it. We were informed that all Chief Accounts Officers have already been addressed on the subject but we have emphasised that Agents should also be separately addressed.

19. *Combined Audit and Accounts Office for the Andamans.*—The establishment of a combined Audit and Accounts Office for the Andamans has engaged the attention of the Public Accounts Committee since 1926-27. As considerable expenditure is being incurred on the development of various undertakings in the Island, and as owing to the fact that irregular shipping service between India and the Andamans and other conditions make it difficult to watch the progress of expenditure, the committee of last year reiterated the recommendation of its predecessors that a combined Audit and Accounts Office should be established in the Island as early as possible. We have been informed that owing to financial stringency the scheme has been for the present dropped. We consider this unfortunate. The Accountant General, Central Revenues, has pointed out in his Appropriation Accounts that large variations under certain sub-heads of the Grant indicate the necessity of more careful estimating and control over expenditure on the part of the Local Administration and the Commissariat officer, and the Auditor General has added that the Chief Commissioner is at present in a very difficult position, as no form of proper financial advice is available to him locally. The Auditor General has suggested that the position might be met by deputing a trained Assistant Accounts Officer to do the work of the Treasury Officer, and also to look after the accounts and give financial advice to the head of the Administration. We consider that the matter ought not to be regarded as permanently dropped, and recommend that even in the present financial stringency it is desirable from the point of view of financial control that an effort should be made to improve the present position. We, therefore, commend the economical proposal of the Auditor General for the consideration of the Government, and we suggest that any extra expenditure involved in this might be more than counterbalanced by a reduction in general administrative staff.

20. *Kangra Valley Railway.*—Before we conclude this section of our report, we wish to refer to a matter of some general importance arising out of a railway transaction which formed the subject of a previous recommendation of the Public Accounts Committee, *viz.*, the Kangra Valley Railway. We examined the Chief Commissioner for Railways last year on the question of control over project estimates with reference to this particular scheme, and we were informed that a Committee was then sitting and making an investigation into the matter. This question was again referred to in the Legislative Assembly during the discussion on the Report of the Public Accounts Committee in February 1931, while in the course of the debate on the Railway budget the

Financial Commissioner stated that though the Committee appointed to investigate the matter had reported and the Government of India had practically formed their conclusions on the subject, the matter was still under correspondence with the Secretary of State and that the decision, when arrived at, would be made known to the members of the Assembly and the Public Accounts Committee. Although a final decision had since been reached, owing to some misunderstanding it was not communicated to us until we asked for it. We must comment upon this as unsatisfactory, and we must record our view that when any transactions, which are the subject of recommendations by the Public Accounts Committee, are concluded, the final result should invariably be reported to the Committee at the earliest available opportunity. In the present case the Railway Board have now provided us with copies of the Report and a note on the action taken (Appendix XXVIII).

21. *Other outstanding points.*—The record of our treatment of other outstanding questions is included in the records of our proceedings which should be read together with this report and dealt with in exactly the same manner. This was the first year when the Government of India did not issue their resolution on the recommendations of the Public Accounts Committee and the Finance Department prepared quarterly statements of action taken by various Departments on the Committee's recommendations. While recording our appreciation of these quarterly statements, we wish to point out that the Finance Department has yet to evolve an entirely satisfactory machinery to expedite and co-ordinate departmental action on our recommendations. Various instances came to our notice where it appeared that Departments adopted a dilatory attitude in regard to our recommendations. We consider that each Department should delegate the duty of scrutinising our Report to a responsible Officer of the Department and that such Officer should be in close touch with the Secretary of the Public Accounts Committee throughout the year. We desire to make a special note of the following points :

(1) A number of recommendations made by previous Committees are still outstanding, pending consideration in connection with the impending constitutional changes. They have been brought to our notice in the usual way by inclusion in the list of outstandings prepared by the Finance Department. We suggest that these recommendations be noted in a special appendix for necessary action at the proper time, and that the appendix need not be printed and circulated to the Committee in future.

(2) The attention of the Public Accounts Committee was drawn last year to the large stocks of quinine held by the Central Government, and the Committee suggested that the Government of India should try to dispose of 20 per cent. of the stocks at a special cheap price and thereby create a better demand for the balance. We were informed this year that the stock on the 30th June last, amounted to 300,000 lbs., that 150,000 lbs. were adequate for emergencies, and that the Department of the Government of India concerned was considering, in consultation with Local Governments, a new method of disposing of the surplus (in special phials at a cheap price) as suggested by the Director General, Indian Medical Service. We consider it unjustifiable that a large amount of surplus stock should be held, and recommend that the surplus should be disposed of in some way so as either to bring money to the Government of India or to give benefit to the malaria-stricken population of India.

III.—IMPORTANT COMMENTS ON MATTERS ARISING OUT OF THE ACCOUNTS FOR 1929-30.

22. *Purpose of the Appropriation Accounts.*—As the heading of this section implies, we, in the Public Accounts Committee, while studying generally the whole of the Appropriation Accounts and the Reports thereon, can give special attention only to the more important points arising therefrom and it is necessary, as pointed out by the Auditor General, that all authorities concerned with the controlling of grants should study, carefully and in detail, those portions of the Appropriation Accounts which relate to the grants under their control, together with the connected comments and suggestions of the officers of the Audit or Accounts Department. The object of such a study by the controlling officers should be to apply the lessons of the Appropriation Accounts to their future administration of public funds. In the words of the Auditor General, "if an understanding of this kind is definitely established the educative effect of appropriation audit will be greatly promoted, without the Public Accounts Committee being required to enter into detail to an extent which is neither practicable nor suitable". We strongly endorse these observations of the Auditor General and desire to emphasise the principle on which they are based, *viz.*, that the study of their accounts is an essential part of the normal functions of administrative officers and that they should take advantage of their lessons and correct irregularities without relying on the audit staff or the Public Accounts Committee to call their attention to these points. We consider that the Finance Department of the Government of India should watch the fulfilment of this essential purpose of the Appropriation Accounts. We shall further be glad if the Auditor General will bring to our notice

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any cases in which he or his principal auditor may have reason to believe that sufficient action has not been taken on the suggestions in the Appropriation Accounts in all cases, regardless of whether they have been specially commented on by us or not.

23. *Form of the Appropriation Accounts—Civil Department.*—We may now turn to a general question regarding the form of the Appropriation Accounts and of the reports thereon. We have already stated that we approve of the form in which the Director of Commercial Audit has presented the review of the commercial concerns in the present year. We have no important suggestions for improvement to make in regard to the form of the Appropriation Accounts compiled by the Accountant General, Central Revenues.

24. *Form of the Appropriation Accounts—Army Department.*—As regards the Appropriation Accounts relating to the Army, prepared by the Financial Adviser, Military Finance, the form of the Accounts has, on the present occasion, been considerably improved and the narrative survey is a particularly interesting and useful document. We have made some detailed suggestions in our proceedings, including the proceedings of the Military Accounts Committee, for making the document more informative and, subject to any changes necessary in the light of these suggestions, we recommend that future Accounts should continue to be prepared in the same form as those for the year 1929-30. We have no suggestions to make in regard to the Report of the Director of Army Audit.

25. *Form of the Appropriation Accounts—Railway Department.*—As regards the Appropriation Accounts of Railways prepared by the Financial Commissioner, Railways, however, we have to note that, in their present form, these Accounts entirely fail to meet our requirements. We have been presented merely with a document containing the bare figures of the Appropriation Accounts, together with explanatory footnotes on individual items. While the Financial Commissioner has, by presenting a document in this form, supplied the prescribed details and formally complied with the orders on the subject, the information is given in such a form as to fail to meet the substantial purpose which we consider should be attained. There is no general picture of the financial results, no general survey of the state of the financial administration. Nor is there an analysis of the results of the audit scrutiny conducted by the Railway Accounts Department as part of the internal check of Railway Accounts. In other words, a general picture of all the main facts which lie behind the Railway Appropriation Accounts, such as is available to us in the case of the Military Appropriation Accounts, is lacking. We have discussed this matter very fully with the Financial Commissioner, who has undertaken to bring his Appropriation Accounts into line with those prepared by the Military Financial Adviser. Having obtained this undertaking, further comment may be deferred until the Public Accounts Committee has before it next year the Accounts in the improved form which has been promised. In this connection we desire particularly to endorse the remarks in the Auditor General's letter about the functions and relative importance of the Appropriation Accounts and the Report of the Director of Railway Audit. We may quote the following passage from this letter :—

> "It follows also, and it is, I think, generally acknowledged, that the accounts organisation though described as purely 'accounts' is responsible not only for the task of accounting but also for the duties of internal audit and the tendering of financial advice which under the system previously existing were entrusted to the combined offices of accounts and audit. The accounting organisation retains, to some extent at any rate, the duty of criticising the financial administration, of preventing financial irregularities, and so forth. And it will further be evident that the accounting organisation is in a better position than the Audit Department to discharge these functions, since the former is in continuous touch with the financial administration, and passes in review from day to day, series of transactions of the same kind, whereas audit, on the other hand, being merely a test audit, must confine itself in the main (1) to scrutinising the general procedure and processes of accounting, and (2) to examining isolated items of expenditure or receipt. It must be accepted, as a principle underlying the separation of accounts from audit, that the former becomes the predominant influence in regulating current financial administration. It will be clear, therefore, I think, that the accounting organisation is better able to present a general picture of the financial results and the state of the financial administration, which lie behind the figures of the Appropriation Accounts prepared by itself, and I suggest that it should be required to undertake this function."

As already noted, it now remains to see how the Financial Commissioner meets these requirements in the Appropriation Accounts to be considered next year. This paragraph is to be read together with paragraphs 11 to 14 of this report.

26. While recognising the limitations, pointed out by the Auditor General, of the functions which can properly be fulfilled by the Report of the Director of Railway Audit, we nevertheless consider that this report should be of considerable value to the Public Accounts Committee and that its present form could be substantially improved. In the first place, we must point out that it is difficult for the Public Accounts Committee to form conclusions from a mere enumeration of unclassified individual instances of financial irregularity. The most useful results can be obtained if it is possible to institute comparisons between the positions on different Railways and also on the same Railway from year to year. For this purpose we think it is desirable to have a more classified report of the irregularities. While we recognise that the present exhibition of the irregularities under the particular grants may be logical, we must point out that it is not helpful for our purposes. The Auditor General reminded us that the Director's audit is only a test audit of transactions for the selection of which individual judgment must play a great part, and further that the Director is not in continuous contact with financial administration in the same way as provincial Accountants General, and that for this reason, the Report of the Director cannot be expected to give a complete and correct picture of the efficiency of administration in the various Railways. Nevertheless we consider that even a comparison of the results of test audit from year to year would still be useful if the results of the comparison were tabulated in the manner suggested by us above. We are glad to find that the Auditor General is able to accept our views on this subject, and has undertaken to instruct Mr. A. C. Badenoch, Director of Railway Audit, to investigate, during his examination of the separated audit of Railway expenditure and receipts in the coming cold weather, in what directions test audit could be usefully directed and how the form of presentation of the results of the test audit could be improved.

27. *New Service.*—The Auditor General has, as usual, prepared a memorandum of doubtful cases of "New Service" appearing in the Accounts for 1929-30 (Appendix IX).

28. *Expenditure on traffic surveys on the Great Indian Peninsula Railway.*—During the course of the year the Administration incurred expenditure on eight traffic surveys, involving individually in that year charges varying from Rs. 1,000 to Rs. 14,000. None of these cases was specifically provided for or contemplated in the budget of the year. Three of them, however, had been specifically provided for in the recent budget although expenditure had been postponed. The Auditor General has pointed out that these traffic surveys do not commit the Administration to further expenditure, and he has suggested that the undertaking of such a survey, although not contemplated in the budget of the year, need not, unless the expenditure rises, or is thought likely to rise, to a considerable sum which the Public Accounts Committee might specify, be looked upon as a "new service" or a "new instrument of service" so as to require a specific vote of the Legislature. We agree that so long as the cost of any individual traffic survey is confined within reasonable limits, such expenditure should not properly be considered a "new service" or a "new instrument of service" in view of the fact that traffic surveys have been carried out as a normal part of railway administration from the inception of railways in India. We further accept the suggestion of the Auditor General that Rs. 10,000 may be considered to be a reasonable limit, and that the vote of the legislature may be held to be necessary for expenditure on individual surveys exceeding Rs. 10,000.

29. *Railway Capital expenditure.*—Before leaving the subject of Railways, we should like to refer to a question of paramount importance in the sphere of Railway finance to which reference has already been made in the more general remarks contained in paragraph 11 of this report—*viz.*, the *capital expenditure incurred since the separation of Railway from General Finances.* It has been suggested by the Auditor General that the Public Accounts Committee should consider this question from two practical standpoints :—

(1) whether, after duly discounting the effect of recent abnormal conditions, the productivity of capital expenditure incurred since the separation has conformed to expectations? and

(2) what, judged in the light of recent and present experience, should future policy be in the matter of incurring further capital expenditure?

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We were reminded by the Chief Commissioner for Railways that the full effect from investments of capital on Railway construction can normally be seen only after a considerable period from the date of the completion of a project—say, about 7 years—; but we consider that the present occasion, when because of the financial position it has in any case become necessary to call a halt in capital expenditure, affords a suitable opportunity for a comprehensive and thorough review of the whole position. We think that this may properly fall within the functions of the Expert Committee, which has been recommended by the Railway Retrenchment Sub-Committee. We would add that if, and when, such an Expert Committee takes up the examination of this question it would be useful for them to carry back their investigation to a point earlier than the separation of Railway from General Finances and to examine the results of all new capital expenditure incurred since the War.

30. In this connection we may quote the following paragraph from the Report of the Director of Railway Audit :—

> "170. The railways have in recent years embarked upon several electrification schemes in different parts of India. Although progress in this direction is no doubt inevitable on such general grounds as additional public convenience, yet in most cases financial benefits have also loomed largely as an incentive to change. In many of the schemes it will be difficult to calculate in the face of a number of changing factors what has been the financial effect of electrification. The Great Indian Peninsula Railway however hopes to be able to separate out the accounts of their electrified sections and the results when presented may serve as a useful guide for future programmes."

We should like to emphasise the desirability of getting an accurate picture of the financial effects of electrification on various Railways apart from the larger question of the productivity of capital expenditure incurred on Railways generally. We have been told by the Controller of Railway Accounts that there may be certain difficulties in the allocation of expenditure between the electrification scheme and the other branches of the Railway. We recommend that the question should be scientifically studied by the Railway Board, which should find out from British Railways what they have done in similar circumstances and how they have calculated the financial results of their electrification schemes.

31. *Military Accounts Committee.*—Before we proceed to consider the Military Appropriation Accounts, we desire to refer to the question of the functions of the Public Accounts Committee in relation to those Accounts. We note that the question has already been examined by the Departments of the Government of India and that it has been held that constitutionally, the Military Appropriation Accounts stand on the same footing as the other Appropriation Accounts, so far as the right of the Committee to deal with the Appropriation Accounts and connected documents is concerned (*vide* Appendix XXIX). We recognise, however, that the present practice of subjecting the Military Appropriation Accounts to a preliminary examination by an *ad hoc* Committee, called the Military Accounts Committee (consisting of the Hon'ble the Finance Member, the Financial Secretary and the Controller of Civil Accounts), has its own advantages in view of the highly specialised and complicated nature of much of the material in those Accounts. We do not accordingly desire to suggest any fundamental change in this procedure, which has become accepted as a convention. The Auditor General informed us that the post of the Controller of Civil Accounts would shortly be converted into that of a Deputy Auditor General and that the latter Officer, exercising as he will no independent function but being essentially a Deputy to the Auditor General, could not suitably be appointed to the Military Accounts Committee. There would thus arise the question of replacing the Controller of Civil Accounts on that Committee and we take this opportunity of recommending a change in the constitution of the Committee, which should, in future, consist of the Hon'ble the Finance Member as Chairman, the Financial Secretary and three unofficial members nominated by the Public Accounts Committee from among themselves.

32. *Military Accounts—Abolition of priced stores ledgers.*—The Military Accounts Committee has considered very carefully the proposals made by the Financial Adviser for the abolition of priced stores ledgers in Arsenals and other storage depots (*vide* Appendix XVIII). This question has been discussed by the Army Retrenchment Sub-Committee as a measure of economy expected to result in an annual saving of about Rs. 4½ lakhs. We considered this matter at some length with the assistance of the Financial Adviser, the Auditor General, and the Military Accountant General, and in all our discussions we set prominently before us the proper requirements of the public in regard to information enabling them to scrutinise public expenditure.

Viewed from this standpoint the main questions on which it is important that the public should have information are :—

(1) *As regards the transactions of the year.*—To what extent cash expenditure on stores during a year represents something more or something less than the normal consumption?

(2) *As regards the position at the end of the year.*—To what extent quantities of stocks held are excessive or deficient as compared with the standard quantities required?

Information on both these questions will enable the public to know whether current expenditure has been more or less than what is normally to be expected, and whether a situation is arising which is likely to upset the budgetary position in the future as a result of the creation of deficiencies which will eventually have to be made up out of revenue. There is also a third and equally important question for assessing the position, namely, to what extent fluctuations in prices have affected expenditure during the year? It was explained by the Financial Adviser, Military Finance, that the only way of providing a statement of the stocks held, which would be intelligible to the public for the purpose of making a comparison from year to year, is to compile a priced list—thus converting all stocks into the common measure of money. Comparison of quantities is hardly possible owing to the vast number of items—about 80,000. On the other hand, he stated emphatically, the comparisons made on the basis of the existing priced lists were really valueless, because these lists only referred to stocks held in certain depots and took no account of stocks held with units, etc. As a practicable measure he proposed to follow the British practice of giving values of stocks for certain categories, and also to present, in connection with the annual budget estimates, a statement showing how the annual cash expenditure compared with consumption of stocks in respect of certain categories of stores. He further undertook to include in the statement information regarding the effect and extent of price fluctuations during the year, and also to furnish in his Appropriation Accounts an informative statement indicating any important variations from normal holdings under different categories of stores. The statement would in the usual course be test-audited by the Director of Army Audit. We asked the Auditor General for his views on the proposals of the Financial Adviser, and we were informed that he was definitely of opinion that the present statement is of very little practical value and that statements on the lines proposed by the Financial Adviser, designed so as to give information under the heads stated above, would be more useful. Having regard to the views of the Auditor General and to the British practice in the matter and to the direct economies which will result, we express our approval of the proposal made by the Financial Adviser.

33. *Control over stores and stocks.*—We have referred in preceding paragraphs, and also in various parts of our proceedings, to the important question of control over stores and stores accounting. In his Appendix to the Appropriation Accounts of the Central Government for 1929-30, the Director of Commercial Audit has made some important comments on the subject, and has also dealt with the question of annual verification of stores and stocks, *vide* paragraphs 20—22 of the Appendix. We endorse the comments and observations in these paragraphs, and we suggest that these paragraphs be circulated to all Departments of Government.

34. *Financial position of the Indian Posts and Telegraphs Department.*—We have examined the memorandum (Appendix XXII) furnished by the Department of Industries and Labour on the financial prospects of the Posts and Telegraphs Department, after taking into account the effects of the retrenchment proposals and the measures for increasing revenue, and also the effect of the recommendations of the Posts and Telegraphs Accounts Enquiry Committee. We most emphatically endorse the view that, as a matter of principle, the Department should be self-supporting and that whatever steps are necessary to bring this about should be taken, and further that the efforts in the direction should not be relaxed until this result has been achieved. In our view there are three principal lines of action which may help to achieve this purpose :—

(1) Retrenchment in normal expenditure—including revision of establishment, conditions of pay and service;

(2) Adjustment of charges to the public; and

(3) Improvement in commercial management—to secure greater efficiency and increased business—resulting in increased net revenue.

As regards the first line of action, we consider that the recommendations of the Retrenchment Committee hold the field and that at present the main task is to concentrate on giving effect to these. As to the second, we consider, having regard to the

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substantial increases recently introduced, that nothing further can be done at present in the direction of adjusting the charges made to the public. As regards the third and last line of action, we are of opinion that it may possibly be advantageous to have an expert enquiry at some later stage but that such an enquiry is not opportune at the present juncture.

35. *Loans to Provincial Governments and Indian States.*—Our attention has been drawn by the Auditor General to the comments on page 606 of the Appropriation Accounts of the Accountant General, Central Revenues, regarding the great, and apparently unanticipated, increase in the liability of the Bahawalpur Durbar. We are grateful to our Chairman for a full explanation of the position in this case. We note that he further informed us that the question of technical and financial re-construction of the project is now actually under investigation by a highly qualified expert committee. After hearing the Chairman we desire to place on record our view that the whole question of examination of the financial prospects of projects for which the Government of India is asked to advance loans either to the Provincial Governments or to Indian States is a matter of extreme importance. According to our appreciation, in a number of cases of projects, which are now approaching completion, it is becoming increasingly apparent that the original estimates were faulty, either as regards the cost of the project or as regards the return to be expected, and that heavy losses are likely to be incurred. This indicates that the financial examination by the Government of India in the first place was inadequate. We wish to point out that although the Government of India may in these cases merely have advanced money to the authorities undertaking the projects and may not be itself directly interested in the commercial results, nevertheless the failure of a large project may so upset the financial position of the borrowing authority that it would be unable to meet the services of the loans which it had raised from the Government of India. It is for this reason that the Government of India must, in our opinion, satisfy itself as to the merits of each project for which it is asked to advance money. We desire to record our view that such an examination must be regarded as one of the most vitally important duties of the Government of India, and that the responsibility for it should be clearly laid down so as to avoid any possibility of misunderstanding as to where it lies at all stages of the consideration of any business. We consider that the ultimate responsibility must rest with the Finance Department, which should be properly organised to discharge such responsibility and should receive the co-operation of all other Departments in doing so.

36. In conclusion, we have to mention a subject which was specifically referred to us by the Finance Department at the instance of the Auditor General (*vide* Appendix XXVII), and in which the Legislative Assembly will be interested. The report of the Railway Retrenchment Sub-Committee contained certain recommendations for reduction in expenditure of Railway audit and accounts. These recommendations are being examined by the Government, but we were asked in connection with this examination whether we should be prepared to assent to any substantial diminution in the information as regards railway receipts and expenditure, and in the facilities for financial control, which have been afforded to the Legislature by the existing system. After careful consideration we have to record that our answer to the specific question put to us must be decisively in the negative, more especially as we feel that even with the existing facilities the opportunities for financial control by the Legislature over railway expenditure are not entirely adequate or satisfactory.

GEORGE SCHUSTER.
S. C. MITRA.
ISMAIL ALI KHAN.
T. N. RAMAKRISHNA REDDI,
B. DAS.
M. C. RAJAH,
M. A. AZIM.
MD. YAKUB.
R. D. DALAL.
J. RAMSAY SCOTT

V. K. ARAVAMUDHA AYANGAR,
Secretary.

The 28th January, 1932.

THE INDIAN COMPANIES (SUPPLEMENTARY AMENDMENT) BILL.

The Honourable Sir George Rainy (Member for Commerce and Railways): Sir, I beg to move that the Bill to amend the Indian Companies (Amendment) Act, 1930, for a certain purpose, be taken into consideration. This is a very small Bill, Mr. President, which proposes to make a very small change in the law. It arises in this way. Under section 144 of the principal Act, *i.e.*, the Act of 1913:

"No person shall be appointed or act as an auditor of any company other than a private company unless he holds a certificate entitling him to act as an auditor of companies."

Now, under the amending Act of 1930 provision was made for the case of a firm of Accountants and it was provided that:

"A firm whereof the partners all hold such certificates may be appointed by its firm-name to be auditor of a company, and may act in its firm-name."

The necessity for that arose from the fact that there was no provision for giving any certificate to the firm as such. Since the amending Act was passed, it was brought to the notice of Government that there were certain firms who, in addition to the partners resident and practising in India, had also partners who do not reside in India nor do they practise in India. And it seemed to the Government of India that to disqualify such firms from acting as auditors of companies would not be reasonable, nor in accordance with the real underlying intention of the law. For that reason it seemed desirable to make the small amendment proposed in this Bill which merely proposes to substitute for the condition that all the partners must hold certificates the condition that all the partners practising in India must hold certificates. That, Sir, is the substance of the Bill, and I do not think I need say more in explanation of it. I should only like to add, because I know it is a matter in which several Members of this House are interested, that we hope all our arrangements will be complete and that we shall be able to notify the coming into force of the amending Act of 1930 with effect from the 1st April next. It was therefore appropriate to make this amendment in the amending Act now so that the law will be in a right condition at the time it actually takes effect.

Sir, I move.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Sir George Rainy: Sir, I move that the Bill be passed.

The motion was adopted.

THE EMPLOYERS AND WORKMEN (DISPUTES) REPEALING BILL.

The Honourable Sir Joseph Bhore (Member for Industries and Labour): Sir, I beg to move that the Bill to repeal the Employers and Workmen (Disputes) Act, 1860, be taken into consideration.

It is, I think, Sir, unnecessary for me to add anything to the Statement of Objects and Reasons and to what I said on the occasion when I moved for leave to introduce this Bill. It is a perfectly simple and straightforward measure and I venture to think that it will not arouse any controversy.

Sir, I move.

Mr. N. M. Joshi (Nominated Non-Official): Sir, before I make up my mind to vote for this Bill, I should like to know from the Government of India what they propose to substitute in place of the Act which they are asking this House to repeal. The Act referred to in the Bill is an Act intended to provide for the speedy termination of certain disputes between workmen engaged in railways and other public works and their employees. Sir, I think that this old piece of legislation contains some provisions which I will not insist upon repealing, and contains some provisions which I would repeal immediately, but on the whole I am not in favour of that Act at all. But I should like to know from the Government of India what they have done to give effect to the recommendations of the Royal Commission on Labour for making provision for speedily terminating disputes, first, on the Indian railways. The Royal Commission on Labour has made certain recommendations with a view that railway disputes shall be speedily and properly settled. We are now repealing an Act which was intended to serve this purpose. I should like to know from the Government of India what they have done during the last six months or more after the publication of the Royal Commission's Report to bring about a machinery for the speedy and proper settlement of the disputes on Indian railways. Secondly, Sir, this Act which we are now seeking to repeal also applies to certain public works. I may call these public works the public utility services. In connection with the disputes in the public utility services the Royal Commission on Labour has also made certain recommendations. The Royal Commission felt that in the present Trade Disputes Act, which we enacted only a few years ago, the employees of the public utility services have been placed at a disadvantage. While their right to go on strike is restricted, they are not given an assurance that their grievances would be considered; and the Royal Commission on Labour therefore recommended that this defect in the Trade Disputes Act, which we enacted only two years ago, should be removed and a consideration of the subject should be undertaken by Government at an early date. This is what the Royal Commission on Labour says on this question:

> "In our view the weakest point of the Indian provision is that while it restricts the powers of workers in public utility services to force their employers it gives in return no assurance that their grievances will receive a hearing. We have made else-where proposals to alter the position of railway workers in this respect."

That is one point on which I want information. The second is:

> "With regard to the other classes to whom the section applies, we think the question of providing means for the impartial examination of disputes should have early consideration."

The Report of the Royal Commission on Labour was published early last year and it is now many months since that report was published; I want to know whether early consideration was given to the subject by the Government of India, and if so what they propose to do in that respect.

The Royal Commission on Labour has also made certain recommendations for the speedy and proper termination of disputes; they have recommended that conciliation officers should be appointed by the Government. They are necessary; they may be necessary in certain departments of the Government of India. They may be necessary for the Local Governments. It is quite true that the Government of India cannot take steps for the appointment of conciliation officers for Local Governments, but certainly the Government of India can bring this to the notice of the Local Governments and impress upon them the necessity. It is also true that under the present circumstances Local Governments may find it difficult to find the money for appointing new officers. But on that point let me say this: that both the Government of India and the Local Governments are spending huge amounts of money at present in order that there should be peace in the country; and the appointment of these officers is intended to serve that object. The appointment of these officers is recommended by the Royal Commission in order that there should be peace in the industry everywhere. I therefore think that, in spite of the hard times through which the Local Governments and the Government of India are passing, this is a subject on which they should spend money even in these bad days. I want to know from the Government of India what has been done in these respects before I vote for the consideration of this measure.

The Honourable Sir Joseph Bhore: Sir, in the first place I should like to invite the attention of the House to the fact that the immediate repeal of this Act has been recommended by the Royal Commission on Labour, of which my Honourable friend, Mr. Joshi, was a Member; and the recommendation was not made contingent upon the acceptance of any other recommendation. I think that that is a correct statement of fact.

Mr. N. M. Joshi: But the Royal Commission made their recommendations as a whole.

The Honourable Sir Joseph Bhore: I would next like to invite the attention of the House to the fact that the Royal Commission's recommendations number not less than three hundred, as far as my recollection goes; and the consideration of these recommendations is a matter of time, more especially when in the present circumstances I have not merely no extra staff but the existing staff that I have is likely to be cut down. It is inevitable therefore that the consideration of the measures recommended should take some considerable time. But I can assure my Honourable friend Mr. Joshi and I can assure the House that no avoidable delay is occurring, and that I think is borne out by the fact that during this present session I am placing before the House no less than four legislative measures. In addition to these, I may say that references have been made to Local Governments and we ourselves have taken executive action in more than one particular case. For instance, in regard to our Central Public Works Department we have formulated certain instructions based upon the recommendations of the Commission.

Turning now to the specific point which my Honourable friend has raised in respect of the railways, I would like to assure him that the recommendations of the Commission in respect of the machinery suggested

[Sir Joseph Bhore.]

by them for the settlement of future disputes is receiving the consideration of Government. As he and as the House is aware, we have at the present moment available the Trade Disputes Act, the provisions of which are intended for the settlement of disputes in respect of railways, as in respect of other industrial disputes. As my Honourable friend is aware, at the present moment a court of inquiry is sitting with the specific object of settling a railway dispute which at present exists. As far as my recollection goes, the Royal Commission only recommended the immediate amendment of one section of the Trade Disputes Act, and that was not the section to which my Honourable friend refers. However that may be, the House is of course perfectly aware that the Trade Disputes Act will expire in another two years; and both in respect of the administrative machinery recommended by the Commission for the settlement of disputes on railways and in respect of the future of the Trade Disputes Act, the Government are giving active consideration to the proposals that have been made, and I need hardly assure the House that we will have come to some conclusions and we will, I hope, be in a position to lay before it such proposals as we think necessary to take the place of the Trade Disputes Act before it finally expires.

So far as the Act now being repealed is concerned, I think a reference to it would satisfy the House that it should no longer remain on the Statute-book. I do not know whether a copy of the existing Act is in the hands of Honourable Members—I shall be happy to provide a copy if any one desires to look into its provisions. As I have said, the Royal Commission have, without qualification of any description, recommended the immediate repeal of this Act and this Bill is placed before the House in pursuance of that recommendation.

Mr. President: The question is:

"That the Bill to repeal the Employers and Workmen (Disputes) Act, 1860, be taken into consideration."

The motion was adopted.

Clause 2 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 move that the Bill be passed.

Mr. N. M. Joshi: I would like to say one word. The Honourable Member stated that the Royal Commission had made only one recommendation for the immediate amendment of this Act.

But I read to him and read to the House this sentence:

"With regard to the other classes to whom the section applies, we think the question of providing means for the impartial examination of disputes should have early consideration."

"Early consideration", I take it, means immediate amendment.

Mr. President: The question is that the Bill be passed.

The motion was adopted.

THE INDIAN FINANCE (SUPPLEMENTARY AND EXTENDING) AMENDMENT BILL.

The Honourable Sir George Schuster (Finance Member): Sir, I move for leave to introduce a Bill to amend the Indian Finance (Supplementary and Extending) Act, 1931, for a certain purpose.

At this stage I think I need only call the attention of the House to three points in connection with this measure. The first point is its object. That is shortly and clearly set out in the Statement of Objects and Reasons. The object is to provide an opportunity for simplifying the procedure in the assessment of small incomes. This simplification will, we believe, be convenient to the assessee, expedite the collection of revenue, and help to keep down the cost of the staff required for assessment and collection.

The second point which I wish to make clear is also explained in the Statement of Objects and Reasons. It is that the Bill in no way affects the right of an assessee. The simplified procedure will only be applied if the assessee himself acquiesces in it. It cannot be forced on him against his will. He remains entirely free to claim assessment according to the existing and more complicated procedure if he desires that.

The third point that I want to make clear is that this Bill has been drafted in the form of an amendment to the Finance Act, and not to the Income-tax Act. This in a sense gives it a provisional character. If the Bill is passed, we shall have an opportunity of seeing how it works in practice during the period of the operation of the Finance Act. If the procedure proves satisfactory and if its continuance is required, then it can be adopted as a permanent feature in the Income-tax Act. For the present, however, the House is not being asked to sanction its adoption as a permanent piece of machinery but only really on a provisional basis during the currency of the Finance Act of 1931. Sir, I move.

The motion was adopted.

The Honourable Sir George Schuster: Sir, I introduce the Bill.

THE INDIAN AIR FORCE BILL.

Mr. G. M. Young (Army Secretary): Sir, I move for leave to introduce a Bill to provide for the administration and discipline of the Indian Air Force. This Bill, Sir, is required to give legal existence and status to the Indian Air Force, which is in process of formation, and to provide for its administration and control. I am afraid it is rather a long Bill, but it is non-contentious. The whole of it is taken or adopted from existing Statutes, the British Air Force Act on the one hand, and the Indian Army Act on the other. If leave is granted to introduce the Bill, I propose next week to move for reference to Select Committee. Sir, I move.

The motion was adopted.

Mr. G. M. Young: Sir, I introduce the Bill.

THE SUGAR INDUSTRY (PROTECTION) BILL.

The Honourable Sir George Rainy (Member for Commerce and Railways): Sir, I move for leave to introduce a Bill to provide for the fostering and development of the sugar industry in British India. The objects of this Bill, and also of the two subsequent Bills which stand in my name in the notice paper, have been explained in the Resolutions of the Government of India, copies of which have been circulated to Honourable Members. I do not propose, therefore, to take up the time of the House with any further explanation. But I should like to apologise to the House for the fact that in the agenda originally circulated for the proceedings of this day these Bills were not mentioned. The reason for that was that in each case, until Government were in a position to publish the Report of the Tariff Board and the decision at which they had arrived, they were not in a position to intimate that there would be a Bill. That, Sir, is the explanation why these Bills were not in the original agenda.

The motion was adopted.

The Honourable Sir George Rainy: Sir, I introduce the Bill.

THE WIRE AND WIRE NAIL INDUSTRY (PROTECTION) BILL.

The Honourable Sir George Rainy (Member for Commerce and Railways): Sir, I move for leave to introduce a Bill to provide for the fostering and development of the wire and wire nail industry in British India.

The motion was adopted.

The Honourable Sir George Rainy Sir, I introduce the Bill.

THE BAMBOO PAPER INDUSTRY (PROTECTION) BILL.

The Honourable Sir George Rainy (Member for Commerce and Railways): Sir, I move for leave to introduce a Bill further to amend the law relating to the fostering and development of the bamboo paper industry in India.

The motion was adopted.

The Honourable Sir George Rainy: Sir, I introduce the Bill.

THE BENGAL CRIMINAL LAW AMENDMENT (SUPPLEMENTARY) BILL.

The Honourable Sir James Crerar (Home Member): Mr. President, I move that the Bill to supplement the Bengal Criminal Law Amendment Act, 1930, be referred to a Select Committee consisting of Mr. C. S. Ranga Iyer, Mr. Amar Nath Dutt, Mr. B. Sitarama Raju, Mr. Abdul Matin Chaudhury, Mr. Arthur Moore, Rao Bahadur S. R. Pandit, Mr. Muhammad Anwar-ul-Azim, Mr. R. S. Sarma and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four.

I do not think, Mr. President, that in moving this motion it is necessary for me to inflict upon the House a long or an elaborate speech. In the first instance, the Bill itself is a very short measure containing practically only one effective, operative clause, and apart from that, it has been before the House for over a year. Opinions have been called for and have been collected, and it has also been already the subject of two days' debate in this House. I shall therefore content myself with a very brief account of the actual position with regard to legislation in this matter, and I shall go no farther back than to the year 1930 when the Bengal Criminal Law Amendment Act of 1925 expired. At that time the Government of Bengal decided that the second part of that Bill, which referred to the detention of persons without trial, should not be continued, but, though they were very anxious were at that time willing to endeavour to dispense with these provisions, it was not without grave misgivings that they arrived at that decision. Consequently the only part of the Bill which was continued at that time was that portion which referred to trials by special Commissioners. The House is aware of what followed within three weeks occurred the dreadful outrage at Chittagong, and it became necessary by means of an Ordinance to re-introduce the latter portion of the Act. The provisions of that Ordinance were a few months later enacted into law by a very large majority by the Bengal Legislative Council. It was in January 1931—the House will recollect—that I introduced the Bill to supplement the Act which had been passed in the local Council. I then gave a very full account of the reasons which had actuated the Government of Bengal in asking us to continue those powers and the grounds on which the Government of India had considered it necessary to accede to that request. During the course of the year 1931, I deeply deplore to say so, the position with regard to the terrrorist movement continued rapidly and gravely to deteriorate, so much so that it was necessary in the month of October by means of an Ordinance to make certain amendments in the provisions of the local Act that is to say, the Bengal Criminal Law Amendment Act as enacted by the local Legislative Council. It is the intention of the Government of Bengal during the course of this month to introduce a Bill in their Legislative Council in order to give effect to the provisions of that Ordinance, but in the meantime, it is my duty to ask this House to refer to Select Committee the Bill which by their direction was circulated for opinion last January.

Now, Sir, I said a few moments ago that we have unfortunately to record that during the last 12 months the position with regard to the terrorist movement and the commission of those dreadful outrages which are carried out in the name of that movement has steadily and gravely deteriorated, and that is the position with which the House and myself have to deal to-day. I do not intend to inflict upon the House any

[Sir James Crerar.]

further recital of that melancholy and tragic catalogue. A statement of cases of terrorist crime which have been reported to the Government of India during that period is already in the possession of Honourable Members, and no words which I could add by way of comment upon that tragic catalogue can be in any way necessary to convince Honourable Members of the great gravity of the situation. There have in that period been reported to the Government of India 93 crimes of a terrorist nature, 24 of which relate to murders or to attempted murders, and it is probable that the list is not complete. The most serious crimes are the murders of Messrs, Peddie, Garlick, Khan Bahadur Ahsanullah, Mr. Stevens, Mr. Ashutosh Neogy, and the attempted murders of Messrs. Cassells, Villiers, Sergeant Durno, the Assistant Superintendent of Police of Chittagong and the District Magistrate of Howrah. There have been several recent attempts to derail trains which are probably—though I cannot definitely say—due to agents of the terrorist movement. There is no indication whatever of the abandonment of terrorist activities, and the strength and progress of the movement is at the present moment only controlled and kept within bounds by the measures which the Government of Bengal are enabled to take against it. The Government of Bengal have approached us with a very strong representation that until some of the worst terrorists concerned in this movement, now under detention or hereafter who may be in detention, are removed from that province, their means of dealing with the situation and the action which their officers can take, acting, as the House will readily realise, under circumstances of the greatest peril demanding from them the greatest devotion to duty and the greatest courage—qualities which have been shown in the most signal manner throughout the whole of the history of this unhappy episode—(Hear, hear)—it has been pressed upon us very strongly that it will not only be a matter of material assistance to the Bengal Government but that of all possible measures probably the most important single practical measure that can be taken is to relieve them of some of the worst agents of this movement.

Now, Sir, the necessity for this course will I think be apparent to the House. I explained at some considerable length on the last occasion, but perhaps in order that I may make the point perfectly clear it may be expedient for me to repeat once more and with additional emphasis—because we are confronted with a position of even greater gravity—what are the objects and what is the necessity for the proposals contained in this Bill. First of all, it is obvious that there are among the large number of persons who have been dealt with under the Bengal Criminal Law Amendment Act a certain number of inveterate terrorists with whom no reason can prevail and whose influence upon those who are associated with them either in the prisons or in the detention camps is of the worst possible character. We know perfectly well that men of that kind are responsible, mainly responsible, for the state of indiscipline which I regret to say from time to time has taken place in these jails and in these camps. They are not only responsible for that indiscipline, but they are and they have been concerned in promoting plans and conspiracies for the commission of further outrages. It is very desirable that the younger men who unfortunately have been led away to join in this movement—it is very important that these younger men should be preserved from the contamination and association of men of the kind I have spoken of. And above all things, so far as the general public

interest is concerned, it is of the utmost importance that any opportunity for the concoction of plans, for communication with outside agents engaged in the prosecution of conspiracies to commit terrorist outrages should be removed. This it is not easy entirely to preclude, if the lenient conditions of detention, including facilities for interviews and correspondence granted in consideration of the fact that these men have not been convicted in a court of law, are sought in this manner to be abused.

1 P.M. Now, Sir, I do not think that in all the circumstances which I have described, circumstances with which Honourable Members are themselves very well acquainted, it is necessary for me to emphasize at any greater length the great danger which must be incurred if there is any possibility of plots and conspiracies being contrived in jails and in detention camps. It is abundantly clear that, owing to the manner in which the deeds of assassins have been eulogised, some sections at any rate of the public are very much impressed by those eulogies. Persons concerned in this movement will, if the opportunity is given to them, find a certain amount of countenance and support outside. Indeed, Sir, I will give the House only two recent instances which are illustrations of what I have in mind. As recently as last month a detenu was caught while attempting to escape from a camp. He was found to be carrying letters of introduction to terrorists at large, and in the same month the father of a detenu was visiting his son in camp and he was caught in the act of smuggling out 15 letters to members of an organisation which is known to have been responsible for several of the murders of Europeans which have taken place in Bengal during and since 1930. We also have information which we believe to be reliable that specific instructions were issued from such places of detention (*a*) to murder a particular District Magistrate (*b*) to murder a particular Superintendent of Police (*c*) to murder the presidents of tribunals which had tried terrorist cases, (*d*) to murder a high official of Government and (*e*) to concentrate on the murder of Europeans and particularly of members of the Indian Civil Service. Now, Sir, these are very serious facts, facts which I ask the House once more seriously to consider. In order to meet the immediate difficulties of the Bengal Government, I should inform the House that on their own urgent representations we have already undertaken to transfer from Bengal about 18 of the most inveterate terrorists. That action has been taken under Regulation III and it is not only because there are administrative and other difficulties attaching to the employment of that Regulation, but above all because it is my earnest desire to secure the co-operation of the House in this matter (which I myself would infinitely prefer, and I hope the House will justify my preference), that I ask it to equip the Government with the requisite powers. We have also informed the Bengal Government that if and when this Bill is enacted, what we have in mind as an immediate measure is the transfer of a certain number of those who fall within the category I have mentioned to a locality in the province of Ajmer-Merwara, a place which has an extremely salubrious climate. where there are also excellent buildings already in existence, and I trust that if and when the detenus are confined in that locality we shall have the additional advantage of having brought to bear upon them the elevating and refining influence of Diwan Bahadur Har Bilas Sarda. (Laughter.)

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): Please do not contaminate my province. We do not want to have them.

The Honourable Sir James Crerar: In view of the interjection made by the Honourable Member opposite I pass very briefly to explain the views which have been obtained from Local Governments. The general trend of those opinions is that the Bill in itself is a very desirable Bill but, that in so far as the Local Government are concerned, they would prefer that these detenus should not be handed over to them. Now, Sir, that is a very intelligible point of view and we have to give it the serious attention it deserves because there is a very considerable danger of the dissemination of the virus of terrorism. The provinces, I am glad to say, have done their utmost to support the Government of Bengal and the Government of India in this matter, but we must take note of the fact that their objections are very substantially founded and reasonable, and it is for that reason that we contemplate at any rate in the first instance—I hope that it will be adequate and sufficient for the purpose—that the transfer should take place to the locality I have mentioned.

Diwan Bahadur A. Ramaswami Mudaliar (Madras City: Non-Muhammadan Urban): What are those localities? I thought the Honourable Member referred only to one locality—Ajmer-Merwara.

The Honourable Sir James Crerar: I referred to one locality only.

Diwan Bahadur A. Ramaswami Mudaliar: Is that all that is contemplated?

The Honourable Sir James Crerar: For the present. I expressed the hope, which I trust will be realised, that the particular measure now under contemplation will be adequate for the purpose.

Mr. Gaya Prasad Singh (Muzaffarpur cum Champaran: Non-Muhammadan): Why don't you restrict the scope of the Bill only to Ajmer-Merwara? Why do you give these extensive powers to the Bengal Government to transfer the detenus all over the country?

The Honourable Sir James Crerar: The Bill does not confer powers upon the Government of Bengal of their own motion to make any transfers at all. The matter must be regulated by the consent and sanction of the Governor General in Council, and I think it is only prudent that when we are making a legislative provision of this kind we should prepare for possible contingencies of the future, which I trust will not occur.

Now, Sir, in the few remarks which I have to make in conclusion, I shall in the first instance recall the fact that during the Simla session it was my painful duty to bring before the House a Bill dealing with one aspect of the terrorist movement, a Bill of much wider scope than the present Bill, a Bill which certainly had the potentiality of affecting more the interests of the general public, or at any rate of a much larger class of individuals than are concerned in the present Bill. I am very glad to acknowledge, Mr. President, that on that occasion the House showed willingness to co-operate with Government in the matter and the Bill to which I have referred was passed by a very large majority. Apart from that, during recent discussions we have received assurances from a large number of Honourable Members that they condemn the terrorist movement and I infer that if Government came before them once more with the measure necessary to deal with that movement, they would be willing once more to co-operate and to give Government their help and assistance in this matter. With those acknowledgments present to my mind, Mr. President, and with those assurances in my memory, I ask the House to pass the motion which stands in my name.

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 in the Chair.

Diwan Bahadur A. Ramaswami Mudaliar: Mr. President, I am in a peculiarly difficult position to-day . . . . .

Mr. Gaya Prasad Singh: I rise to a point of order, Sir. Is there a quorum in the House? (The bell rang and a quorum was found to be present.)

Diwan Bahadur A. Ramaswami Mudaliar: Mr. President, I find myself in rather an embarrassing position in rising to speak on this motion, not because I have any difficulty as regards my own attitude, but because of certain remarks that have been made yesterday and the day before by the Leader of the European Group and by the Leader of the House and by other Members of the European Group. We were told that the Criminal Law Amendment Bill, which is now before the House, was going to be a test case, that we would be in the dock and that on our behaviour would depend the judgment—may I hope the favourable judgment—of the Members of the Treasury Bench and of the Members of the additional Treasury Bench who are representatives from the European Associations.

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): May I ask what is the additional Treasury Bench?

Diwan Bahadur A. Ramaswami Mudaliar: The overflow of the Treasury Bench which we find to the right of my friend, the Foreign Secretary. Sir, we were told that it would be a test case. . . . . .

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): On a point of order, Sir. I want to draw the attention of the Chair to one fact and also the Honourable the Home Member's attention. The Bengal Council is discussing to-day and is going to reach a final decision as to the question of the release of the detenus, who ought to be released according to the decision of the Bengal Council. It may not be necessary to find them accommodation somewhere in India. Therefore may I suggest to the Honourable the Home Member that this discussion do stand adjourned for one day.

The Honourable Sir James Crerar: I find it difficult to realise that the point raised is a point of order, but if it is a point of order, I can only say that it is the duty of this House, when a matter is brought before it in the normal and constitutional manner, to proceed with that business.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Before I call upon the Honourable Member in possession of the House to continue his observations, I should like to point out to the Honourable Member (Mr. Ranga Iyer) that the House is possessed of this Bill and that the motion before the House is to refer it to a Select Committee. If any developments take place after the Bill is referred to a Select Committee the House is entitled to decide at a later stage what course it would follow.

Diwan Bahadur A. Ramaswami Mudaliar: Mr. President, I was just referring to the fact that the Honourable the Leader of the House from his responsible position said that this Bill was going to be an acid test of the sense of responsibility which this House is going to show on occasions of this kind. I am sorry that the Honourable the Leader of the House should have taken a most unfortunate case to apply this test, for I shall show that opposition has come to this Bill in the past not from those on whom the suspicious eye of the Leader of the House rests, not occasionally but almost invariably, but from those upon whom he has a kindly eye and from whom he is always entitled to and does invariably get support On the last occasion, when this House was discussing the Bill, the most vehement, the most strenuous and the most dogmatic opposition came from my esteemed friend Maulvi Sir Muhammad Yakub and from my other esteemed friend Sir Abdullah Suhrawardy. In the course of his remarks my friend Sir Muhammad Yakub said:

"To put it in a nutshell, what does this measure mean? It means that there are 300 detenus in Bengal, that the Government of Bengal are incapable of disconnecting them from the rest of Bengal, and that they cannot prevent secret intercourse between these detenus and the people of the province. This shows the inefficiency of their officers who are in charge of the work. The next thing is that they are unable to provide accommodation for these 300 detenus. Are these two considerations sufficient to bring in such a measure before the House and to deliver a speech of twenty minutes' duration, pregnant with such solemnity?"

When my Honourable friend made these remarks; I believe he was referring to the 20 minutes' speech of my friend Sir James Crerar.

"If the Government of India are prepared to spend lakhs and lakhs of rupees, for instance, forty lakhs of rupees in building a separate recreation club for the sake of half a dozen railway officers, in a town where already an European club exists, it is surprising that they cannot find money to provide separate accommodation for these 300 detenus in the province to which they belong. If they cannot find efficient officers to perform their duties and to stop the sources of connection between these detenus and the people of the province, then they cannot justify their existence in India, on the pretext that they are the guardians of the peace and that the duty of preserving law and order in the country has devolved upon them. These are the only two grounds on which the Government have brought this Bill before the House, and I think that those grounds have got no force and they fall to the ground."

"Now, Sir, the rigour and the extraordinary hardship which this Bill would entail upon those persons who would become victims of this malicious measure (*nothing stronger has been said or can be said by any Member sitting in this part of the House*) have already been fully given expression to by the previous speakers, and I need not go into them over again. Some of these hardships, of course, it is in the power of the Government to remove or to mitigate, for instance, to provide these people with the same food which they get in their own province, and things like that; but there are certain hardships over which the human hand has no control, as for instance, climatic conditions. For example, if you deport a man from Madras to Peshawar, what will be his condition in the month of December?"

My friend, the present Leader of the Nationalist Party (Sir Hari Singh Gour) said that he would be frozen to death. And continues Maulvi Sir Muhammad Yakub:

"Then there is the difficulty about language. If a man living in Madras is deported to a place in my province, say, Allahabad, suppose he tells the man in the jail that he wants some rice. In Madrassi language they call it "Chour". In Urdu "Chour" means a thief. If the deportee wants rice, I do not know how the jail official in Allahabad is going to help him. These are the difficulties of climate, difficulties of language, difficulties of surroundings, over which the Government, even if they wanted to, have no control, and for these reasons, I think that this Bill should not be supported."

That is so far as Maulvi Muhammad Yakub, as he then was, is concerned.

Now, I come to Dr. Abdullah Suhrawardy, a gentleman who has certainly on all critical occasions come to the support of the Government as one who has understood the gravity of the situation and who has realised the importance of the position he occupies as a Member of the Legislative Assembly. He takes not merely the obverse but the reverse side of the picture and looks at it in a cool, dispassionate and unbiassed manner.

Let us see what Dr. Suhrawardy says on the present measure:

"But I myself had to suffer some privation and to undertake a journey from Calcutta to the Hooghly jail to persuade this young man; and I was glad that the result was satisfactory because he immediately gave up the hunger-strike. But is it always possible for me or any other person, however enthusiastic he may be, to undertake a journey from Calcutta to say, Mandalay, and persuade a man like Mr. Satyendra Chandra Mitra,"

I hope there will be no necessity for that,

"or any other person, if he adopts the suicidal attitude of going on hunger_strike, as would be possible for us to do if any such man were incarcerated in the Alipore jail? I ask what facilities do we get; what facilities do the relations and persons incarcerated and transported outside the province get for interview? What facilities would you give me and other Members of the Assembly, who would like to visit detenus in jails and satisfy ourselves as to the treatment accorded to them?"

My Honourable friend the Leader of the House who is in charge of Commerce and Railways will note what follows:

"Am I going to be given a gold pass to travel all over India and to visit the Yeravda jail or the jail in Coimbatore or to go to the North-West Frontier Province or Burma? I cannot afford at my own cost, in spite of my enthusiasm to undertake a journey and then be confronted with all sorts of difficulties when I approach the jailor there."

And he concludes,

"Any way I have already foreshadowed my reasons for being disinclined to support the Bill."

Then he qualifies himself, the careful gentleman as he always is,

"I do not do so, Sir, in any spirit of obstructionism or opposition."

That is a special charge which can be levelled against men like myself. I therefore say that it was a most unfortunate example that my Honourable friend Sir George Rainy could have taken to test the quarters from which support is to come and to test the quarters from which general obstruction may come. What is the history of this measure itself? When the Bill was before the House on the last occasion, my Honourable friend Mr. Abdul Matin Chaudhury suggested that it might be circulated for opinion, and having read all those opinions, I ask the Honourable Sir James Crerar whether he is not satisfied that that course was a wise one. Is he not to-day more enlightened about the attitude of Local Governments in this matter? Has he not derived very useful information from the fact that Government after Government have given their reasons, very cogent and very strong reasons, as I shall presently show, why they should not have these political detenus dumped in their province. Let me take one or two of these Governments and see what their attitude is, the responsible attitude of a responsible Government, Executive Council Members who take the oath of office and the oath of allegiance to His Majesty, and Members who, therefore, are not in the category of obstructionists, and

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of men who merely try to thwart the progress of the legislative measures in this House, but men who have as much administrative experience as the Honourable Sir James Crerar has had or the Honourable Sir George Rainy. Let me take the opinion of my own province, Madras, where the Government have always tried to do their level best to see that subversive activities of every kind are not allowed to spring up or develop in any considerable degree. Says the Madras Government through its Secretary of the Law Department:

"I am directed to enclose copies of the opinions of the undermentioned officers and gentlemen who were consulted by this Government and to say that this Government are opposed to the provisions of clause 2 of the Bill. They are of opinion that the Bengal detenus are likely to undermine the discipline and spread the revolutionary movement in the jails of this Province, that the Government of Bengal may make their own arrangements to accommodate their terrorist prisoners in a proper place of detention within the province:"

Does my Honourable friend Sir George Rainy still think that the Criminal Law Amendment Bill is a test case, and if he thinks so, is it going to be a test case only for the unfortunate non-officials, men like myself, or is the test going to be equally applied to the Government of Madras? Take again another province, a first rate province, a full-fledged province, a province which has had Governors since the days of the inception of the East India Company. I turn to the province of my friend Sir Cowasji Jehangir who probably knows something of those gentlemen who are to-day Executive Councillors—probably one or two of them were his colleagues in the good old old days, in the days before he lost caste by becoming a Member of the Legislative Assembly, I turn to the Province of Bombay. Mr. Collins, Secretary to the Government of Bombay, Home Department, writing a courteous letter to the Secretary to the Government of India, Legislative Department, says:

"The Government of Bombay consider that there is a very real danger that the transfer of persons committed to custody under the Act in question to the jails of this Presidency will result in the contamination of the prisoners in those jails. They, therefore, are decidedly of opinion that such persons should normally be kept in the jails of their own Province. They would, however, be willing in case of emergency to take such persons on conditions that their number would be very few and that they would be consulted in each case before the transfers are made. They are further of opinion that the practical difficulties attending such transfers should not be lost sight of and in this connection I am to enclose a copy of the letter from the Inspector General of Prisons in this Presidency....."

I shall not weary the House by reading out the various objections that the very experienced Inspector General of Prisons of the Bombay Presidency has put forward to the measure. I ask again the Honourable Sir George Rainy, is the acid test going to be applied to the Government of Bombay, or is it going to be confined, at the dictation of my Honourable friend Sir Hugh Cocke, the Leader of the European Group of this House, to the non-official Members here who are tarred by the same brush and who are supposed to be always of an irresponsible and obstructionist nature? These are weighty opinions from responsible Governments against the measure. But I am not prepared to-day to take up the position of not allowing this Bill to go before the Select Committee. I am prepared to show a greater sense of responsibility, even at the risk of being misunderstood by some of my colleagues, in this part of the House, than the Government of Bombay or the Government of Madras have done, and I say

that, not because I feel any cheer in responding to the appeal for co-operation which the Honourable Sir James Crerar has held out to us to-day, but in spite of the very obvious injustice that he did to the Assembly yesterday. What was the suggestion behind the speeches of the Honourable the Leader of the House and of the Leader of the European Group in the debate of yesterday? What was the suggestion except that this House was not qualified to discuss this question or at any rate that they were not going to trust this Assembly to take up a measure of this kind and yet to-day they come forward and say. "Here is an opportunity given to you to co-operate with us if you like". Sir, it reminds me of a very old story. "Love me, love my dog" says the fascinating flapper, and the gentlemen on the Treasury Bench say, "Support us, support us even when we treat you with contempt, when we will not take you into our confidence and when we refuse to allow you to partake in the responsibility of passing those laws for which, as I have once before observed, this Assembly is primarily constituted". But in spite of that I am willing to allow this Bill to go before the Select Committee (Hear, hear) because I know that some time or other, sooner rather than later, even the Honourable Sir George Rainy will feel that he has done an injustice to this House by the attitude that he has taken up and by the manner in which he has repeated arguments which might lie well in the mouth of a non-official irresponsible gentleman like Sir Hugh Cocke but which certainly do not sound well and do not seem even politic from the mouth of my Honourable friend Sir George Rainy.

Mr. B. Das (Orissa Division: Non-Muhammadan): He is part of the machine.

Diwan Bahadur A. Ramaswami Mudaliar: Let me now proceed with the further remarks which I wish to make with reference to the measure itself. Sir, the measure proposes that the Government of Bengal, with the sanction of the Governor General, may transfer any of these Bengal detenus to any of the provinces. I take exception to that. I take exception to this on the ground that the Governments themselves have put forward the argument that you have no business to dump on other Presidencies and to the care and charge of other Governments, prisoners who cannot be kept in restraint in your own province. Sir, the most amazing part of the speech of my Honourable friend Sir James Crerar was that in which he frankly admitted that the Bengal Government was an incompetent Government.

The Honourable Sir James Crerar: Sir, if I may rise to a personal explanation, there is no passage in my speech which would justify that construction at all. I said that the Government of Bengal were confronted by certain grave difficulties, and I considered it the duty of the Government of India and of this House to render them assistance. There was not a single word in my speech which could justify the suggestion of the Honourable gentleman opposite that I cast any reflections upon the competence of the Government of Bengal.

Diwan Bahadur A. Ramaswami Mudaliar: I would have been very green indeed, Mr. President, if I thought that Sir James Crerar would get up and say in so many words that the Government of Bengal were incompetent. But when he suggested that covered letters were issued by these men, that their instructions were carried out by the revolutionaries, that the whole system of jail administration in Bengal was such that it was honeycombed by sympathisers of these detenus from the warders and jailors

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upwards,—and that was the only construction I could place upon his remarks,—that it was impossible for jail discipline to be had, that it was impossible for proper watch and ward to be had over the visitors who visited these detenus, and the sort of things that could be smuggled out from these jails, what other construction was legitimately open to me than to suggest that whether the Bengal Government was competent or not the administration of the jails in the Bengal Government was something scandalous? I ask my Honourable friend to consider what he himself has said, to read over his speech again and to see the implications of the various statements he made. And, Sir, my Honourable friend said that these are facts,—which emphasis I appreciate, I do not question them. I ask, therefore, what other inference is there than to suggest that there is something rotten in the administration of jails in the Bengal Presidency? If that were not so, what is your justification for coming forward with this Bill? If the powers that you now have, powers of supervision over these detenus, powers of controlling interviews by visitors, powers of checking the visitors as they pass out from these jails and from the detention camps, if these powers are properly exercised, then what justification is there for you to come forward and say that these detenus ought to be transferred to other provinces? You cannot have it both ways. Your justification for this Bill is that in the province of Bengal it has been found absolutely impossible to exercise control, either because the officials are not supporting you enough or because there are various ways of getting at these officials, suborning the lower officials of the Jail Department or for a variety of reasons all of which go to emphasise the point, and therefore the administration of jails in Bengal is as rotten as it possibly could be. Therefore it is that you have come forward with this Bill and say that these detenus should be transferred to other provinces. I hope my Honourable friend Sir James Crerar, when he reads his speech, will realise that I am right in the implications I read into what he himself has said.

Now, Sir, I come as I said to the Bill itself, and I say that it is a preposterous thing that the Government of Bengal, with the previous sanction of the Governor General, can send its detenus to any province it likes and merely issue an ukase like one of its Ordinances that that province should thereafter keep these people in proper control. Sir, we hear a great deal of provincial autonomy. I do not know when it is coming; I myself have opposed the idea of provincial autonomy coming a day sooner than when this House becomes a responsible House and the Members on that side become responsible Members. But whatever it may be, when you are talking of provincial autonomy, is it consistent with that that you should by your own sweet and free will without any sort of consultation with the Local Governments and without any sort of volition on their part carry out these measures according to your own reasonableness or according to your own dictates? It is impossible that that state of things should be tolerated. Indeed without having any sort of brief on behalf of any of the Provincial Governments, I say that I oppose the idea that, without previous consultation and indeed consent of the Provincial Governments, any detenu should be transferred to any of these provinces. If this Bill were to go before the Select Committee, I would make it a condition precedent to my acceptance of this Bill when it comes back, that a provision should be included not merely for the sanction of the Governor General, but also for the consent of the Government or Administration concerned. My

friend Diwan Bahadur Harbilas Sarda was very much excited, and naturally so, when Ajmer-Merwara was referred to. "Of all places in India why my unfortunate province should be taken up and why all these detenus should be brought there and kept in the charge of my administration", says Diwan Bahadur Sarda, "is one of those Eleusinian mysteries which I cannot understand". But if Ajmer-Merwara were to be taken up at all, I suggest that it can be taken up only with the consent of the Administration of the province. Now, Sir, Ajmer-Merwara, I mean no sort of offence to my friend, is a very small area in a very small administration directly controlled by the Central Government under the immediate superintendence and control of the Honourable Sir James Crerar,—(*An Honourable Member*: "No, under the Foreign Office."),—I stand corrected,—under the greater grip of the Foreign Department and the Foreign Secretary than under the somewhat salutary administration of my friend in the Home Department. What does this Administration of Ajmer-Merwara say on this question? I should have thought that they would have accepted with whispering humbleness and bated breath a proposal coming from such an august source as the Home Member of the Government of India, the proposal that is contained in this Bill. But it seems to me that the most seditious among all people are the various Administrations concerned so far as this Bill is concerned. The Administrator of Ajmer-Merwara says . . . (*An Honourable Member on the Government Benches*: "He says he has no objection".) I am going to read the whole of that and I am not going to omit any proviso. It has not been my practice and I am not going to start a new practice in this House to-day. Therefore if only the back-benchers on the Treasury Benches will possess their souls in patience, I will place the whole of that letter before the House. The Honourable Mr. L. W. Reynolds, C.S.I., C.I.E., M.C., I.C.S., (now Sir Leonard Reynolds) Chief Commissioner of Ajmer-Merwara, says:

"With reference to letter No. F.-109-I./131-A., dated the 9th February 1931 from the Government of India in the Legislative Assembly Department on the subject mentioned above, I have the honour to state that I agree with the views expressed by the Judicial Commissioner that so far as clause 4 of the Bill is concerned without a provision of this nature the entire object of the Bengal Criminal Law Amendment Act would be defeated. . . . . So far as Ajmer-Merwara is concerned this Administration is not interested in the provisions of the Bill except so far as it permits the transfer of Bengal detenus to, say, the Ajmer Jail."

—and these are the words to which I invite the specific attention of the Honourable Member—

"I presume that this Administration would be consulted before any particular detenu was so transferred. On this assumption I see no objection to the provisions of the Bill."

Is that a small assumption? What was my point? It was that you shall not transfer these detenus without the active consent and co-operation of the Government or Administration concerned. And here is an Administration which says that not over the whole policy of transfer even but over the question of transferring every single detenu you ought in each case to take the specific approval of the Administration concerned.

Sir, I shall not weary the House with quoting more opinions on this subject. They are all more or less of the same opinion, except the Government of Bengal which of course, having managed its jail administration so wonderfully and so splendidly, is certainly not opposed to other provinces also learning lessons in jail administration and jail discipline by having the Bengal detenus under their control. Therefore, I would suggest in the first place that when this Bill goes to the Select Committee, there must

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be a provision that no detenu should be transferred to any other province unless the specific consent of the Government of that province or the Administration in that area is taken.

Then I come to the question which has exercised the minds of many of my colleagues here, the question of the facilities that ought to be given to these detenus when they are transferred to other places. I think it is a very real question; I think it is a question on which there can be no difference of opinion whatsoever, and I think, however attractive the place may be, it is perfectly clear that, unless there are those facilities as regards diet, the Government will take a very grave and very heavy responsibility indeed by making these transfers. I see that in one of these opinions an Inspector General of Police lightly says that there ought to be no question about these dieting arrangements and there ought to be no difficulty raised—while in Rome, behave as the Romans do. While in Madras eat the Madras curry. It is all very well to say that, but these detenus are not in Rome of their own sweet will and pleasure. If I go on a visit to Rome I perhaps have to put up with inconveniences; but even that is not the case so far at least as most Members sitting on the Treasury Benches and their nationality are concerned. I know exactly how they do and what they do; whenever they go anywhere on the continent or to any part of the world, they carry little England with them: they must have, shall I say, their porridge and their buttered toast and not the Continental breakfast; they must have their chops underdone and not the dishes however finely and sweetly made, in the Parisian restaurants or in other places to which one has to go. While in Rome they are the last persons to do as the Romans do. (*Lieut.-Col. Sir Henry Gidney*: "Have you tasted any of those dishes?") I have tasted some of them and I have had the guidance of friends like Sir Henry Gidney in the taste of other things which I cannot possibly taste myself. Therefore it seems to me it is not so light a question: you cannot say while in Rome do as the Romans do, and eat Bombay *chuppattis* if you cannot get your Bengal rice and *dal* and fish. You must provide facilities to ensure that their dieting arrangements are properly done because otherwise, as I have said, very grave responsibility is being taken by the Government in the matter.

I should now like to invite the attention of Honourable Members to one opinion which has been given by a non-official member, again to emphasise the fact to my friend, Sir George Rainy, that we non-officials are not so irresponsible as we are sometimes made out to be. I should like to remind this House of a gentleman who was a Member of this House on the last occasion, my Honourable friend, Mr. Venkatramana Iyengar, who came and sat on the Nationalist Benches for a few short weeks. He came from the constituency which the Honourable the Deputy President has the honour to represent. He was once very closely associated with the Congress, believes in the cult of Swadeshi and is known as a public spirited gentleman; and I should like to place before the House the opinion of Mr. Venkatramana Iyengar on the provisions of this Bill. He says:

"When I first read the Bill, I thought that its provisions were quite simple and appeared to me to be unobjectionable. When I read through the proceedings of the Assembly, however, I found that there was a strong opinion against the Bill being passed into law. But I must say that I have not had any reason to change the original view even after reading the proceedings of the Assembly."

Then follows his opinion as regards the merits of Coimbatore Jail to which I specially invite the attention of my friends:

"One of the speakers in the Assembly coupled Coimbatore with Mandalay and spoke in a spirit of keen dislike towards Coimbatore."

I think it was my friend Mr. Abdul Matin Chaudhury who did that grave injustice to the sweet town of Coimbatore from which the Honourable the Deputy President himself comes.

Mr. B. Das: I do not mind myself going to Coimbatore.

Diwan Bahadur A. Ramaswami Mudaliar: Mr. Iyengar says—

"I may assure him and others of that opinion that for reasons of climate and company, Coimbatore is a lovely place and no one will ever regret having come to the Coimbatore Jail." (Laughter.)

A broad invitation, Sir, even to the occupants of the Treasury Benches:

"The present Superintendent is a very nice officer (lest there should be any doubts as regards the treatment that may be meted out to these detenus) and the subordinates in the Jail and the members of the local Discharged Prisoners' Aid Society are so ready to help outsiders that no one will ever desire a change to any other place."

They will look after you when you are in jail; and when you come out there is the Discharged Prisoners' Aid Society, who will take care of the discharged detenus if they happen to be in that unfortunate position. Then, lest he should be misunderstood, my friend makes it clear:

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"I am not speaking from any feeling of self-flattery."

And then follows this remarkable testimony which Coimbatore has obtained and which my friend has published to an interested world:

"Mr. V. J. Patel, one of our greatest leaders and one of the most well-known ex-Presidents of the Assembly authorised me once while he was in this Jail to say that he would under no circumstances like to be transferred from this Jail to any other Jail." (Laughter.)

I hope my Honourable friend, Sir James Crerar, will remember that when he thinks of the place in which Mr. Patel now is . . . .

An Honourable Member: Where?

Diwan Bahadur A. Ramaswami Mudaliar: Echo answers "Where". The Government of India have no intention of disclosing the places where some of these gentlemen who are detained under Regulation III of 1818 or the corresponding Regulation of Bombay are at present, for reasons best known to themselves.

Now, I suggest that there should be a very definite provision that the conditions under which these detenus live if at all they should be transferred to any place outside their own province should be adequately safeguarded, safeguarded by legislation, and that is what I am suggesting to the Select Committee. You ought to have provisions whereby there should be a strict obligation cast upon the Government. These people should not be at the sweet will and pleasure of any Inspector General of Police or Superintendent of Jail who tells them that while in Coimbatore they must behave as Coimbatoreans do, I do not know how they behave, but that is what a Superintendent of Jail might be inclined to say if

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has not got a legislative restriction that he should treat them as they would have been treated if they had continued to be in Bengal. It is for your convenience, for the sake of the facilities which you want, that they are transferred out of that atmosphere and placed elsewhere; and there ought to be a provision that in the matter of dieting in the matter of clothing and in the matter of those amenities which are essential for the ordinary comforts of life, they should have those amenities which they were accustomed to have in Bengal.

I do not think that I should take up more of the time of the House. As I said I do not know whom the acid test is going to be applied to. In my opinion the acid test is to the Government and not to us who are on this side of the House. We told you yesterday that if you meet us in a reasonable spirit, if you take us into your confidence, if you ask us to discharge the responsibility which is rightly ours, we are prepared in an unprejudiced and unbiassed manner to discharge those responsibilities. Yesterday it was a different story. My Honourable friend Mr. Arthur Moore with his heart in the "Ayes" lobby took his steps to the "Noes" lobby, and I am sure many other Members did the same thing, and it was acclaimed as a great Government victory in a local daily newspaper in Delhi. Whether it is a Government victory or a Government defeat, I ask those who have analysed the figures which the courtesy of the Editor of the *Statesman* has put in the top lines to see for themselves whether it was a Government victory or a Government defeat. On this motion, the adoption of the reference to Select Committee will show that morally at any rate the Opposition have scored every time.

Diwan Bahadur Harbilas Sarda: Sir, I rise to enter my strong protest against the enactment of this Bill.

My province is a non-regulation province. It has not got a local Legislative Council to voice its sentiments or record its opinions on enactments. Whenever reforms are introduced, Ajmer is ignored; whenever a province is raised to the position of a Governor's province, Ajmer is ignored. Why! Perhaps because it has not given sufficient trouble to the Government. Sir, whenever a beneficent activity has to be encouraged, Ajmer is never thought of. The Ajmer-Merwara Administration is starved. Sufficient funds are not provided for its proper administration. But when you want to do anything disagreeable, when you want to do a thing, a difficulty to overcome which even the Bengal Government is unable to cope with, you think of Ajmer. You say Ajmer-Merwara is the place where a certain thing should be done.

You say that Ajmer has a good climate. Is that any reason, Sir, why it should be turned into a penal settlement? Is Ajmer to take the place of the Andamans? (Laughter from the Nationalist Benches.) (*An Honourable Member*: "It has a very good climate".) Is Ajmer an uninhabitated province with large tracts of unploughed lands. Is there any large virgin jungle in that province? Is Ajmer a place cut-off from civilization like the Andamans? (*Voices*: "No, no" and Laughter.) Is Ajmer to be re-barbarised (*Some Honourable Members*: "Re-barbarised?" Laughter) in order to solving the difficulties of Government which are of their own making? Because Ajmer is peaceful, because its citizens are gentle and law-abiding, because in the Great War they furnished the

largest percentage of man power to go to Europe for the British Government, is this the reward that you are going to give to the people of Ajmer—turning the place into a penal settlement? (*Some Honourable Members*: "It is a very good place".) Strange are the ways of God, but stranger are the ways of the Government of India. After what has been stated by my friend Diwan Bahadur Ramaswami Mudaliar with regard to the beauties, the conveniences, the comforts and the great merits of Coimbatore jail, why don't you send your convicts to the Coimbatore jail, why think of poor Ajmer? (Laughter.) Leave us alone for Heaven's sake, and send your men to Coimbatore. Leave my province alone, please. If you love me why do you kick me? If you like Ajmer, if you think that Ajmer is inhabited by peace-loving citizens, why do you want to send your convicts there? Sir, in the name of my much neglected province, in the name of five lakhs of people residing there, I protest against this Bill. If your intention is to inoculate the ignorant but peaceful people of Ajmer-Merwara who are not yet initiated into the mysteries of Western civilization with revolutionary ideas, if you want to inoculate them with the doctrines and opinions which the detenus hold or are supposed to hold, then send them to Ajmer-Merwara, give them perfect freedom to mix with the people there; tell them not to go out of the district till all the people of that province have become their disciples, and then reap the harvest of your own sowing. But, Sir, as the Honourable the Home Member said, he wants to make Ajmer the victim of the mistakes and the incompetence of others. I must protest and protest strongly against the enactment of this Bill.

I may also say that on general grounds a person who has been detained in prison without trial should not be transferred to another province; it is unjust and unfair to send him out of his own province and keep him in a strange environment. As has been clearly pointed out by my friend Diwan Bahadur Mudaliar, it is because the Bengal Government are unable to cope with the situation, which situation has been created by the Government of India by detaining people without trial, that Ajmer-Merwara is made the victim and is to be sacrificed at the altar of expediency. Sir, I oppose this Bill.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I must make it clear that I was against the principle of this Bill from the very beginning. The main object of this Bill is merely the transference of Bengal detenus from Bengal to other provinces. I find that whenever the Honourable the Home Member addresses the House about the detenus, he wants to prejudice the issue and mislead the House by giving a big catalogue of all the terrorist crimes committed in Bengal. Yesterday this House by its Resolution expressed its strong condemnation of terrorism and violence. Of course, that Resolution was opposed by Government. I do not know whether they approved or disapproved of the condemnation by opposing the Resolution, but this side of the House made it clear that it condemned violence and terrorism in the strongest possible manner. Then why on every occasion should the Honourable the Home Member come before this House and give us a catalogue of the terrorist crimes committed in Bengal? I thought of raising a point of order on the ground of irrelevancy but I found that similar objection was raised last time, but was over-ruled and you, Sir, permitted the Home Member to narrate the details of some of the crimes committed, on the general ground to enable him to make his position clear when introducing

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such legislation. If it is permissible, Sir, for the Home Member to mention on every occasion and to give a long list of terrorist crimes, will you, Sir, permit me to tell this House how in this land of ours, where every one is peace-loving, this terrorist movement has come into existence? Has this Government tried to root out the real causes that have brought about this movement? My friend the Honourable the Home Member mentioned so many cases of attempts at assassination and cases of actual murders which everybody deplores, but the real reason is it is the short-sightedness of these little minded statesmen who happen to preside over the destinies of this land that impels these revolutionaries to murder others and sacrifice themselves. If I had the time, Sir, I could show that whenever there was a recrudescence of terrorist crime, it was preceded by cruel repression; it is all moving in a vicious circle; Government take recourse to severe and harsh measures, and that exasperates the people. As I said, we all sincerely deplore the murder of such a good official like Mr. Peddie. I shall be the last man to justify it on any ground, but will you permit me to tell the House what was the condition immediately preceding that obtained in that unhappy district of Midnapore, how many poor and innocent villagers have been killed by Government's repressive measures? There are some reports from un-official authentic sources, but unfortunately they are not allowed to be published. Then take up the latest case of murder in Comilla. Every reasonable and sensible man condemns such murders, but if you go deep into these matters, you will find that Government themselves are responsible, their repressive measures are responsible for the present trouble.

Just recall to your minds as to what happened in the Hijli jail. It was admitted in the inquiry, which was held by the Government officials, that two people were murdered, two of the detenus were killed. They were shot dead. It was established in the enquiry that there were no responsible officials, and the police took the law into their hands and indiscriminately killed these people. What steps did the Government take to see that such things did not happen again? Similarly in every other case. What about Chittagong? I can read here from the report of the non-official enquiry committee and which was published openly in Calcutta. Mr. J. M. Sen Gupta, who is now under restraint, made a public speech in the Town Hall of Calcutta and challenged the Government to prosecute him if there was any inaccurate statement anywhere in that report or in his speech. The Government did not accept the challenge. Now, to-day I understand that there is a motion in the Bengal Council to censure Government for not having taken steps to prevent the occurrences mentioned in these reports. There was even an official enquiry, and all these months they have been sitting idle taking no notice of these reports.

Really it is no pleasure to anybody to risk his own life. If you like, I can convince you however much you may disagree, but it will take time because it will mean a long speech. I can explain to you why sometimes, even public bodies like the Calcutta Corporation had, in spite of themselves, to praise the courage of some of these people. What is the underlying principle that actuates these people? We are very much against their action, against their method, and I further admit that in a trouble-some time like this it is not good policy to discuss it even in public, which might in any way encourage even indirectly any such crime. There is the risk—I admit all that. But you should consider what is really at the back

of the minds of these revolutionaries. You give the Victoria Cross to a man who kills the largest number of the enemy in a war. Because he kills, he murders, he is more effective in killing and more successful than others, you praise him, and you praise him all the more. Why? Because he is actuated by the motive of self-sacrifice, though his action amounts to violence and murder. Similarly you must look at the spring of action that actuated these men. It is mere cowardice to say that you do not admire the selflessness of these men. But that is not the point here. We all condemn their action because we know that they are not going to achieve by this action the purpose they want to serve. I appeal to the Government to feel to appreciate what is actually moving these people; otherwise you cannot cure this malady by merely passing this Ordinance and that Ordinance. This is not an occasion to deal with all these matters, but I find every time the Honourable the Home Member tries to prejudice this House by giving a history of the terrorist crimes in Bengal. I will read with your permission some portions from the report of the Chittagong Non-Official Enquiry Committee. I will read their findings where they say:

"1. The affairs of Sunday night were the result of concerted action by European non-officials, European officers and Muhammadan police.

2. Monday's looting was with the knowledge of the local authorities and at the instigation of the police. It was started and carried on under the protection of the police.

3. In the mofussil, the disturbances took place under orders from the local authorities.

4. Behind the disturbances, which had been planned, the motive was to terrorise people, particularly the Hindus.

5. The following names have repeatedly been mentioned by witnesses, as being associated with the atrocities. . . . . "

Then they give the names. They say in the very beginning that their conclusions were not based on hearsay evidence, but that the local enquiry consisted of:

"a visit to all the places where disturbances had taken place on the night of Sunday, the 30th of August, and on the following Monday Tuesday and Wednesday (2) taking of evidence from sufferers, eye-witnesses and other local people who were able to describe the state of things in Chittagong at the time, and (3) taking of photographs illustrating scenes of destruction."

They got all this actually from the persons who suffered in the course of those riots.

Mr. A. K. Ghaznavi (Dacca *cum* Mymensingh: Muhammadan Rural): What is the Honourable Member reading from?

Mr. S. C. Mitra: I am reading from the Report of the Non-Official Enquiry Committee on Recent Disturbances in Chittagong, September, 1931. It was openly published and the Government was challenged to show if there was any inaccuracy and to bring such action as they liked if there was anything which was not correct:

"But the most pitiful evidence came from the daughter of Sreejut Bipin Behari Sen, whose house had been raided also about midnight. 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. 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 Gurkhas eventually went away with a gold ornament and some gold coins."

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I will show how European journalism in Calcutta has become degraded and incited people to all these crimes:

"The 'Panchajanya' Press is housed in that locality of Chittagong which is known as Rahmatganj. It is the press in which the popular, nationalist paper 'Panchajanya' is printed. It was raided some time after 10-30 P.M. by a party of Europeans armed with revolvers. Sj. Hirendralal Choudhury, who was in charge of the press, was assaulted and he fell down in semi-conscious condition, with a wound in the head which bled profusely. He was able to recognise one of his assailants, Mr. Baker, Signalling Engineer in the Assam Bengal Railway. There were also on the scene two more Hindus employed in the District Intelligence Branch of the Police; the name of one of these was given to us as Charu Chandra Choudhury. The employees of the press were made to hold their hands up, while the furniture and the machinery were wantonly broken. As the machinery could not be easily broken two of the raiding party (Europeans) went out in a motor car to fetch two large hammers with which they eventually succeeded in completely smashing the treadle-machine, the motor and oil engine. The types were scattered on the floor, the typewriter was rendered useless and even a map of the district of Chittagong was torn up. There was Lewis gun placed at the door of the House. It is significant that the raiding party repeatedly asked for Sreejut Ambika Charan Das, the proprietor of the press who was then in Calcutta."

The *Statesman* of Calcutta just before gave the advice that the nationalist press should be adequately punished and mentioned this press also as one of the offenders. I must tell the Government that if they want to root out this terrorist activity, if they want the co-operation of every man, they must try to remove the real causes of all this disaffection. I know this question only arises here incidentally, and that the main issue is about the transfer of these detenus. I ask why should these detenus be transferred to other provinces? I may tell the House that even if this House refuses to pass this Bill the Government have ample power to do what they like. As a matter of fact, detenus have been transferred from Bengal to other provinces. I should like to ask the Honourable the Home Member, in right earnest, why he has come before this House when he has got those very powers. Let him say that he is agreeable to repeal Regulation III of 1818, and then of course, a suitable measure with such modifications as may be deemed necessary may be passed. But now you have sufficient powers to do as you like under Regulation III of 1818 and why do you want to load the Statute-book with a number of laws to do the same thing? You have already transferred a number of these detenus to other provinces. In reply to a question of mine the Honourable the Home Member had to admit that some of the Bengal detenus who had been arrested under the Bengal Criminal Law Amendment Act had been transferred to other provinces. I consider that the present Supplementary Bill is unnecessary. That is my first charge. Therefore I consider that even at present Government have got sufficient powers. The only argument that Sir James Crerar put forward when he moved this Bill was this. I shall read from his speech:

"It has been known, I regret to say, and there have been very strong reasons to suppose, that terrorist activities, terrorist conspiracies have in point of fact had some contact within the jails. It is a condition of affairs which, however, deplorable we must face. It may be, and I am afraid in some cases it probably has been the case that many of these prisoners have been in a position to exercise influence on subordinate officers of the jail. Such a contingency must always be a reasonable apprehension and I have very strong reasons for supposing that has occurred."

If that is the only purpose why the detenus must be transferred, that the jail authorities in Bengal cannot be sufficiently trusted, I shall quote from

the opinion of the Inspector General of Prisons in Burma who says the same thing may happen in Burma as well. I shall read from his opinion:

"In reply to your letter No. 158-W.-31, dated the 25th February 1931, I have the honour to say that with reference to the remarks of the Honourable Sir James Crerar that 'It may be, and I am afraid in some cases it probably has been the case, that many of these prisoners have been in a position to exercise influence on subordinate officers of the jail. Such a contingency must always be a reasonable apprehension and I have very strong reasons for supposing that it has occurred' the same argument applies to the jailors of the province to which these prisoners are transferred. For example, in Burma, State prisoners at Bassein were able to get at a jailor or jailors and succeeded in smuggling out copies of a memorial they had submitted to the Secretary of State with the result that long before the memorial could be considered by the various authorities, it was published verbatim in a well known paper of Calcutta."

You will see that he says that the same thing may happen in Burma as well. By mere transference to another province you cannot safeguard your interest. So my point is that you will not gain your point by sending them to another province. The other point is about overcrowding. You know that the jails in every district throughout the length and breadth of India are overcrowded. They are almost full or will be full very soon. That will give no relief to the Bengal Political Department. As a matter of fact they have started their own camp in Buxa which is in a far off place in the Jalpaiguri District, it is 13 miles from the nearest railway station, a desert-like place.

Mr. A. H. Ghuznavi: A very healthy place.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Do you want to go there?

Mr. S. C. Mitra: It is malarial. Otherwise it is healthy. My point is that if any relative wants to see the detenus, the place is 13 miles from the nearest railway station and he must travel by bullock cart, which takes several hours. There are no passengers in that way. They have put some thatched huts and barbed wire round, in a dilapidated forsaken old fort there. The Honourable the Home Member promised that in the Select Committee he will look into these things and he said on the last occasion:

"Nevertheless I do frankly recognise that the provisions of the Bill for removal to other provinces do involve hardships of a special character. I admit that. Our policy in regard to this matter, when under the Act of 1925 a certain number of such transfers had to take place, was to impress upon the local Governments that so far as possible the conditions of detention in Bengal should be reproduced. Questions of climate, questions of food and other questions which have been raised by Honourable Members are always carefully considered and every attempt is made to secure that, so far as conditions permit, there is uniformity; that there is, as I say, an endeavour to reproduce in the province of transfer as far as possible the conditions in Bengal and if this Bill is passed and if occasion arises for the transfer of detenus to other provinces I am prepared to give an engagement that that aspect of the question will be very carefully borne in mind and that the Local Government concerned will be informed of our views in the matter."

I know what it means when Government give an undertaking. They get a report from the lowest official and it is always endorsed by the higher heirarchy of officials, and the last word from the Honourable the Member in charge saying that the Government of India after due deliberation have accepted it. I am taking more time over this because I am the only person in this House who knows from personal experience, better than even the Honourable the Home Member, as to what the inconveniences and the

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difficulties of the situation are. Government may call the detenus suspects, but you must remember that there is no sufficient evidence against them to take the matter to a court of law. They are not convicts. They have never been before any court of trial. So any reasonable man will only consider them in the worst as under-trial prisoners. Government themselves admit that they have not sufficient evidence against them to put them on trial. When I was in Mandalay Jail, the Chief Jailer there said that he had never heard of detenus and he told me that they must be like ordinary prisoners. He said he had no instruction from his Government. So I was asked to stay there like an ordinary prisoner. He had no other instructions. As a matter of fact it takes a couple of months, being in a distant place like Burma, to get instructions from the Bengal Government. In a new province, where they have no experience of detenus, to begin with at least, these detenus will be treated as criminals, like capital sentence prisoners in solitary cells to be let out only for half an hour in the morning and half an hour in the evening. You are yourself convinced that you have not sufficient evidence against these men. When you deprive these men of their liberty and detain them, why don't you treat them like men? That is the main ground why I oppose this transference. If a relative wants to see the detenu, he spends money and goes to the place. The jailer says he must get the permission of the jail authorities who refer the matter to the Political Department in distant Bengal. This is inevitable. I do not say that Government intentionally create these delays. But we know the way Government machinery works. It takes a long time to get through this correspondence. I tell you it becomes almost impossible for any detenu or internee to have an interview with their near relations.

I do not like to dilate on the other point as regards restrictions, more so because my friend, Mr. Ramaswami Mudaliar, explained that really it is a reflection on the Bengal jail authorities. But I say that in Bengal the jail is under the supervision and control of the police, and the C. I. D. It is the C. I. D. Special Branch through whom one has to go for an interview, and it is they who approve of your request for an interview and fix the time. They send their men to be present there during the interview and it must be in their presence. Even after all this supervision, these people are charged by the Home Member for passing clandestine letters. Even in the presence of the Police Officers you think that these letters can be passed through? Then, I do not know how you can check it. But personally I do not believe that it is possible. In that case it should happen in other provinces as well. Anyhow it only shows that you should improve on the system of check if that is at all possible of improvement. It does not mean that therefore you must transfer these people to different out-of-the-way places. You should improve on the efficiency of your police, but it will not help by sending these detenus to other provinces.

I will tell from my own experience how this Criminal Law Amendment Act is worked in order to show how these transfers add to the tyranny. As I say, I speak from my own personal experience. Only a very short time ago a nephew of mine was arrested. It was on the 2nd of January. He is a post-graduate student in the University. In the newspaper of the 4th I read that he was produced before the Additional Chief Presidency Magistrate. There was news in the papers that he would be produced on the 11th January, in the Court of the Additional District Magistrate of the

24-Parganas. I with my pleader went there and waited from 11 to half past four. I asked my pleader to ask the Magistrate if he had fixed a day for this trial. He said, yes, that is fixed. I sat there till half past four when everybody from litigant to lawyer went away, and the place was almost deserted. Then the court sent for the C. I. D. Then I understood from the lawyer what the purpose was of bringing these people so late when every body else was away. The boy was taken to the court at five. My pleader submitted a petition for bail which of course was rejected. Then we sought an interview with the boy, but that was only granted in the presence of an un-uniformed C. I. D. Officer. The boy told my pleader that he had been severely tortured,—and he gave me the description—how he was put on a cold night into a tub of very cold water, then assaulted, and how other indignities were heaped upon him, and he went on narrating his woeful story. I asked the Magistrate for an interview, and when the boy began to repeat the same thing, the C. I. D. officer objected, but the Magistrate told me, "All right, I am not sending him back to police custody, I am now sending him to jail custody". From there he might complain to me in writing. Then I came back, and he was taken to the jail. You will be surprised that the day after—though the court postponed the case for the 26th of January—that is on the 12th, he was released, he was put in another prison under this Criminal Law Amendment Act. I wrote—as a man who is now co-operating with the Government—a polite letter to the Deputy Inspector General of Police, Intelligence Branch, Calcutta, that the boy had told me in the presence of his own C. I. D. officers and the Magistrate that the police had tortured him at several places, in thanas while under Police custody and requested him politely to make an inquiry and to inform me of the result, and I also appealed to him saying that I was now co-operating with the Government and in these days they should treat men properly. Well, this is the reply I got:

"Will you please refer to your letter dated the 12th January, to the address of the Dy. I. G. of Police, Intelligence Branch, complaining that your nephew, Subodh Chandra Mitra, had been severely tortured by the police while in police custody.

I am directed to inform you that this matter, as you must know very well, was brought to the notice of the court of the Additional District Magistrate, Alipore on the 11th January, (on which date your nephew, the accused, was remanded to jail custody) and dealt with by the court at the time."

As a matter of fact the Magistrate did not deal with the matter at all. Now the rules are made by Government, under which I cannot have an interview with my nephew except in the presence of a police officer and the police officer will not allow narration of the tortures that the boy underwent and the interview will be stopped at once most arbitrarily. These are the hardships that are occurring every day. I do not complain. We shall have to pass through this ordeal. But even in the interests of Government, I say these detenus should be dealt with gently and properly and not harshly, cruelly or vindictively.

Sir, I personally feel, in spite of the fight going on, that the English people and the Indian people will have to settle their accounts one day. But, I appeal to you, do not needlessly embitter our personal relations. The two races will have to settle it amicably, because I believe that there is no incompatibility between Englishmen and ourselves coming to a solution of our problems. As I said to many officials, it is not with Mahatma Gandhi alone, but you shall have to settle with the detenus, the future

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generation. Sir, I have been in touch with the young men of Bengal, call them revolutionaries, call them anarchists, call them what you like, but I assure you that they will gladly come to terms with you, they will arrive at a cordial settlement with you, once you can convince them of your *bona fides*—that you really mean to grant full Dominion Status,—not today, not tomorrow, let it be 10 or 20 years hence. If you go on, everywhere, throughout the country beating people with *lathis*, if while the Mahatma craves for an interview you refuse it, you will not give a chance to him, then it seems you do not want to give any chance to our people to settle our differences with you. As I say, we are between two extremes, that of the Government which is as much unreasonable as the extremists. That is the reason why I point all this out. The Government at the top may be well-intentioned; but the ordinary Government official who has to carry on the day to day work thinks that he must act in a brutal way, so as to make these people come to their senses. But, Sir, by tortures, by *lathi* charges, you really cannot exorcize people of their patriotic feelings. You conquered Germany, you imposed your own terms, but you did not think of dividing the country amongst yourselves, because you know that once a nation has reached that organic stage of nationhood you cannot crush that nationhood. So I believe that we too have reached that stage, and you cannot crush it. You may try to break us by all your means, but let it be in a constitutional way, not in a brutal manner. So what I press for is that this law is not necessary. If however you think this law is necessary, then I say, repeal Regulation III of 1818 by which you are doing the same thing; but even if you insist on it, then in the Select Committee you must have such rules and regulations as would reasonably provide against all patent grievances. You yourself admit that nothing could be proved against the detenus before a court of law then treat them, I ask, like gentlemen. (Applause.)

Mr. J. C. French (Bengal: Nominated Official): Mr. President, I had not intended to intervene in this debate, but the reference of the last speaker to Midnapore district has compelled me to do so. If I heard the last speaker correctly, he said he deplored Mr. Peddie's murder. But he said that it was to be expected and was the result of the repression which had been inflicted on the district.

Mr. S. C. Mitra: Yes, I said that.

Mr. J. C. French: The Honourable Member then went on to use the word "torture" and other strong expressions. Now, Mr. President, granted that what the Honourable Member has said is correct, although I do not admit it, but just for the sake of argument let us grant it that things were done that should not have been done, what sort of an argument is this? Supposing I am not satisfied with Sir Hari Singh Gour and supposing he is shot, am I justified in saying that there is nothing to be surprised at in this because formerly he did so and so? Or supposing I am not satisfied with Sir Abdur Rahim and he is shot to-morrow. . . . .

An Honourable Member: You want to do away with our Leaders!

Mr. J. C. French: Can I say that there is nothing to be surprised at and you must not complain? This argument cuts both ways. I arrived at Midnapore the day Mr. Peddie was buried and I found no such signs in the district as the Honourable Member has suggested, and I toured over the district. I have no hesitation in saying, Mr. President, that if there had been any such acts or any such repression as the Honourable Member suggests, they would have come to light.

Mr. K. C. Neogy (Dacca Division: Non-Muhammadan Rural): They did come to light.

Mr. J. C. French: They did not; listen to me. I know Midnapore district well. It is not a primitive or backward district; it is an educated and up-to-date place, and they know as well how to bring a suit against Government as in any part of India. They might have objected to going to criminal courts, but the civil courts are open. When I was a Joint Magistrate in Midnapore, I received a number of notices of civil suits and when I was there last year I got notices of civil suits also. If anything had happened it would have been brought at once in to the civil court for heavy damages.

Now, Mr. President, the next point I wish to make is with regard to Buxa. If I heard the Honourable Member correctly, he said that Buxa is 30 miles from the nearest railway station. Did the Honourable Member say that the Buxa detenue camp is 30 miles from the nearest railway station?

Mr. S. C. Mitra: I said nothing about Buxar; it is in Bihar.

Mr. J. C. French: The Honourable Member was talking about the detenue camp in Buxa.

Mr. S. C. Mitra: I was referring to Buxa Fort.

Mr. J. C. French: Did the Honourable Member say that Buxa was 30 miles from the nearest railway station?

Mr. President: The Honourable Member can go on arguing on the assumption that he did say so. It will be open to him to contradict the statement if he wishes to do so.

Mr. J. C. French: Buxa Fort is only 4 miles from the railway station. I have been Deputy Commissioner in the district and I have walked from Buxa Fort to the nearest railway station in one hour, and if I can walk 30 miles in one hour I am a champion. (Laughter.) Now, Mr. President, the next point I wish to make is the remark of the Honourable Member: "Why not treat these detenus as men?", thereby implying that they are badly treated. Now, I frankly admit that the Honourable Member is an expert on one side of this question and I am also equally an expert on the other side, as for 15 years as a District officer I have been dealing with detenus and State prisoners. What are the conditions under which these detenus are kept? First of all, they are kept in the best places in Bengal. Their conditions are a liberal allowance for food and liberal pocket money. They are allowed books, perfumes, hair-oil, mirrors, attaché cases, suit cases, sometimes wrist watches, lamps, etc. I have seen all these things myself and I cannot deny it.

Mr. S. C. Mitra: If we provide you 10 times these things, would you prefer to be in jail?

Mr. J. C. French: The Honourable Member said why not treat them liberally, and I am telling the House exactly how they are treated from the evidence of my own eyes.

Mr. D. K. Lahiri Chaudhury: How are they treated in the Hijli Jail?

Mr. J. C. French: I am glad my Honourable friend has mentioned Hijli because I was in Midnapore district when some detenus arrived there. As they came along, their personal effects were carried in a train of bullock carts. That is the way they were treated in Hijli.

I do not think, Mr. President, I need bore the House any longer with the detailed description of the way in which these men are treated, and I will content myself by saying that they are treated with every consideration for their health and well-being. The Honourable Member regaled the House with a lurid story of torture. Now, Mr. President, I have shown that the Honourable Member is inaccurate in several details and so I would say to the House that as he has been shown to be inaccurate in several cases, it should not accept his statement as accurate on this point also.

Mr. S. C. Mitra: Can an Honourable Member impugn the statement of another Honourable Member in the House?

Mr. President. (The Honourable Sir Ibrahim Rahimtoola): It is perfectly parliamentary to say that the statement made by an Honourable Member is incorrect.

Mr. J. C. French: I have found the Honourable Member incorrect in several cases and therefore I ask the House not to accept his statement in further cases.

Mr. S. C. Mitra: Why should the House accept your statements to be right?

Mr. J. C. French: I have proved the Honourable Member's statement to be wrong.

Mr. S. C. Mitra: I say you are wrong.

Mr. President: Order, order.

Mr. J. C. French: I do not wish to detain the House any longer, but there is one point I wish to make. I would like to call the attention of the House to the excessive modesty of the last speaker when he said that he wished to speak from his personal experience and quoted a relative. There was no need for this since he himself has been a State prisoner for the same grounds for which these detenus are already under detention in Bengal. How far the Honourable Member has changed his opinions, the Members of this House who heard his speech in the last debate yesterday and who have heard his speech to-day will be able to judge for themselves.

Mr. D. K. Lahiri Chaudhury: Considering the gravity of the circumstances in which this Bill has been brought before the House, I rise on my legs to say a few words. The previous speaker has mentioned that the observation made by Mr. S. C. Mitra is purely wrong. It must be admitted on all hands that my friend Mr. Mitra is an expert on the one side as the previous speaker thinks himself an expert on the other side. My friend Mr. Mitra was himself at one time a detenue and certainly his statement should be taken as more correct than anybody else's". Representing as I do the Bengal landholders, it will be rather unjustifiable of me to sit here tightly and to give my silent vote, and I find it my duty to give my vote according to my own conviction, as I do always. What did the Honourable the Home Member say in support of his arguments? He said it was necessary to pass this Bill into law because it was not possible on the part of the Government of Bengal to discharge their duties properly as regards jail administration, and in support of his argument he said that some

letters were found in one visitors pocket when he was searched stating and pleading from murders and vengeance. I want to read to the House the opinion of the Burma Government. On page 7 of the report which was sent from Burma it is said:

> "We have enough troubles of our own without other provinces asking us to shoulder some of theirs."

It goes on to say:

> "For example, in Burma, State prisoners at Bassein were able to get at a jailor or jailors and succeeded in smuggling out copies of a memorial they had submitted to the Secretary of State, with the result that long before the memorial could be considered by the various authorities, it was published verbatim in a well known paper of Calcutta (*Forward*). The Chief Jailor Mr. Bhagwan Singh had to be compulsorily retired from the service, on this account."

This is a strong argument on my side. These prisoners, if they at all desire to do mischief, are capable of doing so in other jails too. Therefore it is no argument on the part of the Honourable the Home Member that because they create trouble in Bengal if they are sent out of Bengal it would prevent them from doing mischief.

(At this stage Mr. President vacated the Chair, which was taken by Mr. Deputy President.)

Mr. A. H. Ghuznavi: They are sent to a healthier climate.

Mr. D. K. Lahiri Chaudhury: My Honourable friend Mr. Mudaliar referred to the climate of Coimbatore and perhaps my friend Mr. Ghuznavi would have followed his argument if he had a little bit of common sense. Then I want to say how the Government of Bengal treat their detenus. They treat them with the greatest brutality. I shall read to the House the opinion of a gentleman who is honoured by the whole of India, I mean Dr. Rabindranath Tagore.

Mr. A. H. Ghuznavi: To what period does it refer?

Mr. D. K. Lahiri Chaudhury: I do not want to give way to my Honourable friend. Let me read the speech of Dr. Tagore regarding the Hijli Camp shooting. He says:

> "Let me in the beginning confess that I never take pleasure in exploiting for political purposes, an outrage that is both tragic and cowardly in its brutality, as the shooting at Hijli proclaims itself to be, and it should engage our attention solely for the sake of tortured humanity."

Mark the words "tortured humanity". These are the words of a gentleman who hardly comes to politics and he, in spite of his ill health, presided over a public meeting which was organised to protest against the Hijli Camp shooting, and he was discharging his duty as a humble citizen of Calcutta and these are his words:

> "When I find how almost contemptuously such acts of terrorism may be perpetrated in utter disregard of public opinion, I feel sure that it is but one more of the signs of deterioration that has enfeebled the moral character of British rule in India, presaging for us a fate that is dark, with tendency towards an easy succession of enormities."

[Mr. D. K. Lahiri Chaudhuri.]

People like Dr. Tagore have condemned the outrage at Hijli as the most unprecedented in the history of the civilized world. People were shot at the dining table, though they were absolutely observing non-violence. If they are removed from Bengal to some other jail in some other remote provinces, there is doubt whether they will be treated properly. With the utmost confidence I will give information to this House how the Calcutta Corporation viewed the horrors of Hijli and Chittagong. The Corporation unanimously passed the Resolution. The Hindu and Muhammadan, elected and nominated, Members acted together in passing the Resolution on the Chittagong and Hijli outrages. The resolutions condemned the inhuman barbarities perpetrated in Chittagong and in the Hijli Detention Camp, called upon the Government to institute immediately an independent committee of enquiry, which would inspire public confidence. Departmental or official committees, as the speakers in the Corporation meeting emphasised, were only "whitewashing committees" and as such "worse than useless". The resolution on Hijli also asked the Government to release the detenus at once, as the lives and limbs of the detenus were not "safe" in their keeping. Hijli and Chittagong have cast lengthening shadows all over the country, and it was significant that the entire Indian section of the Corporation, including nominated Indian Councillors, expressed the country's feeling of indignation and horror at the Chittagong and Hijli atrocities. Mr. C. C. Biswas' attitude (in condemning the Government and in supporting the resolution) did not therefore cause surprise. The few Europeans who were in the Corporation to raise points of order or to protest were feeble of voice as they had no worthy cause to stand by.

4 P.M.

This was the Resolution passed by the Calcutta Corporation in connection with Hijli and Chittagong affairs. Now this House has to judge how the detenus will be treated if this Bill is passed into law. There can be no more lawless law than this Bengal Criminal Law Amendment Act. I just want to emphasise one point to the Treasury Bench and want to endorse the views of my friend, Mr. Mitra, who in his very able speech and in the most humble manner told us what was the root cause of all these sporadic murders and terrorism. Certainly it is an action which cannot be justified. Every one of us who has got really human feelings will condemn these activities because these are brutal murders and they cannot be supported by any man with human conscience. But the same time we cannot see without a feeling of horror how our countrymen are being subjected to *lathi* charges. Even our ladies are assaulted. This is the way in which Government are discharging their function in this country. The Bengal Criminal Law Amendment Act was not in force for a period of five years and during that period good feelings prevailed, and now the feelings are embittered. Why? Because the Government are always using force upon force to suppress the movement, and the result is the feelings are growing more and more tense every day. I will just read one extract from a paper called the *Prabartak*. It says:

"In spite of the chorus of condemnation following upon each murder, the terrorist still believes in the justice of his cause and in that sense perhaps counts upon a certain inner sympathy from his countrymen. It is this secret unexpressed sympathy with patriotic crime which makes this problem most difficult for constructive statesmen. This cult of terrorism is borrowed from the patriotic history of Europe. But it seems to have already made its way deep down the hearts of a certain section—however handful—of our countrymen. Once such a plant has taken deep root in this country's soil, it is hard to eradicate it without denying inspiration and nourishment to it wholly from outside and within."

Further on it goes on to say:

"Therefore public opinion has to be created, founded on strong and deep conviction. It has to be cultivated not through force or fear, but through the light of knowledge, through reason. It is regrettable that the Government in launching repressive measure after repressive measure is forfeiting its claim to reason. Its only reliance is then force which is however a very broken reed as experience tells. Government rests on fear of the people; but it can also take its firmer stand on truth and reason, justice and fair play, and these alone can more enduringly be relied upon. If Government instead of taking recourse to these semi-barbarous coercive measures had relied on the real love and loyalty of the people and on its own strong justification in truth, terrorism would have lost its significance."

That is the real remedy, to apply reason and knowledge and deal with the latter calmly, dispassionately and from the point of view of humanity. Sir, I appeal to the Honourable the Home Member with the utmost humility that if he really wants to pass this Bill through this House, there should be sufficient safeguards. This measure is most preposterous, as mentioned by some of the previous speakers, and I do not understand how after the Hijli incident and the atrocities committed there, any Member can support it. Of course, there are gentlemen who are really gramophones of Government and will always support Government, and certainly find some reason or other in supporting their cause. But those Members who have got real consciences and a sense of justice and responsibility will fully support me in throwing out this Bill as obnoxious and undesirable.

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): Sir, I think the discussions over this Bill have covered a very wide ground. We are now concerned not with the Bengal Criminal Law Amendment Act but with the principle underlying this Bill. There may have been reasons for the passing of the Bengal Criminal Law Amendment Act, but I do not see with what object this Bill has been brought forward in this House. Today we have heard certain explanations from the Honourable the Home Member. He says the urgency of the Bill is this, that these detenus are trying murderous crimes from their detention, that they are responsible for indiscipline in jails, and there is facility for communication with outsiders and these make their presence in the Presidency dangerous. I should have thought that these grounds would have been in the original Statement of Objects and Reasons when the Bill was first introduced here. But do we find anything there about these grounds? The only ground suggested there is that because the Act of 1925 contains similar provisions, therefore these provisions should be introduced here. Does the Honourable the Home Member mean to suggest that the conditions in 1925 were the same as they are now or those which justified the Assembly passing a supplementary Bill in 1925? So, Sir, there must be some other reason why the Government of Bengal is now so insistent upon getting this Bill passed. The belated reasons which have now been given by the Honourable the Home Member are to be found, if I remember rightly, in the Resolution which the Government of Bengal passed in connection with the Hijli incident. There they had to justify the conduct of their officers which was unjustifiable; they had to justify the murder of two men and of various others. They had to justify it on the ground that the detenus there were wrong in their conduct, that they went against jail discipline or against something or other, and therefore the sentries were justified or provoked—that I think was the word used—into committing murder. And that explanation was also given by Mr. Moore in his paper, the Statesman a few days before. So there must be some other reason for

[Mr. S. C. Sen.]

passing this Bill, and we have not been favoured with any explanation by the Honourable the Home Member as to why Bengal is so insistent upon it. As regards the reception of this Bill by the several Local Governments, my friends Mr. S. C. Mitra and Mr. Mudaliar have dealt with the point. Nobody is willing to take these detenus out of Bengal to their province. Ajmer has now been chosen by the Government of India, for what reason I do not know. Very likely it is because it is their own province. But whatever might be the reason, what is the reason for clause 4 being inserted in the Bill? The Home Member has not justified the inclusion of that clause in the Bill. I have listened very carefully to his speech both now and before, but I do not find anything which justified the inclusion of this clause.

The Honourable Sir James Crerar: Sir, might I point out to the Honourable Member that that point has been argued in the greatest detail in previous debates? This Bill has been debated for two days already in this Assembly, and the particular question of that clause was very elaborately explained.

Mr. S. C. Sen: My point is that the Home Member did not say anything as to why this clause has been put in. The clause may be otherwise all right, but I have not heard a word as to why it was included. That is my grievance. Then there are other difficulties which I feel, and which I think the Home Member will also feel, as to why these detenus who are after all gentlemen and who have not been found guilty by any court of law, should be transferred to another province and should be subjected to the laws or the rules of that province and not of their own province. They are merely detenus . . . . .

Mr. A. H. Ghuznavi: Are not the laws and rules about jail administration the same throughout India?

Mr. S. C. Sen: You had better read the Bill first and then interrupt. Here it says later on that the provisions of those parts of the country where they may be transferred will apply.

Now, Sir, these are points which should be considered by the Home Member. Why should these men be subjected to a treatment different to that to which they are from their infancy accustomed? And I do not see why they should be transferred at all. Bengal is quite a big place. The Government of Bengal have for some time past been making jails for the detention of these persons. A very big jail has been constructed at Dum Dum; there is one at Buxa; there is one at Hijli and there are so many other jails in Bengal where these people can be accommodated. If they are at all to be transferred to different provinces, will the Honourable the Home Member undertake that they will be treated there exactly in the same way as they are now being treated in Bengal as regards food and accommodation and other amenities; will he undertake that the rigour of climatic conditions, so far as he will be able to do so, will be provided against in such a way in their jails as would make them live there comfortably? If all these things are conceded, I think the Bill may be referred to a Select Committee and it may be entrusted to alter the Bill in that way.

As regards the rules which will apply to them, the Honourable Mr. French, I think, said that they are very good, that the detenus are treated very well; but has he read the new rules which have been published by

the Government of Bengal regarding these detenus? How would he like to have to salaam and to stand up to every officer who goes there, whether he is a constable or a sergeant or any other man? How would he like that?

Mr. S. C. Mitra: "Sarkar Salaam".

Mr. S. C. Sen: How would he like to say "Sarkar Salaam"? He says they are being treated very well. I wish Mr. French would be there subjected to the same rules and asked to say "Sarkar Salaam" when any subordinate officer goes there, even a chaukidar. Mr. French has given us a very illuminating address here as regards his experience during the one month while he was at Midnapore. He said during that period he never heard a complaint about the treatment of the people of Midnapore during Mr. Peddie's time . . . .

Mr. J. C. French: I was there longer than a month.

An Honourable Member: How much longer? For a month and two days?

Mr. S. C. Sen: I beg your pardon; I thought you said one month; perhaps it was a month and two days' experience. But did he inquire into the allegations of repression? He must have known as a Government official that for some time past the local papers in Calcutta, and in fact all over Bengal, were complaining about the repressions that were taking place there. During Mr. Peddie's stay at Midnapore, a report was issued by some gentlemen who went there, and they included Mr. J. N. Bose who was selected by His Majesty's Government to represent Bengal in the Round Table Conference—I suppose that he is as good a man as any other Member in this House.

Mr. Gaya Prasad Singh: Better than most Round Tablers!

Mr. S. C. Sen: Did he inquire whether any of the allegations made in that report were true or false? Did he care to know whether the stories that were mentioned in the papers were correct or not? Did he take any trouble to ascertain what was the state of Midnapore at the time? I know he roamed about the place; I know that travelling allowance is a very tempting thing and therefore he would have to roam about. But what is the tangible result of that roaming? He did not say.

I consider all those matters to be extraneous to the present Bill and I will not dilate upon them now. What I say is this; the Bengal Government must make out a stronger case why the detenus should be sent out of Bengal than what they have done. The new explanation given by the Honourable the Home Member upon information from the Bengal Government is not worth considering. One of the instances which the Home Member has given is this; that a father of one of the detenus once went to see his son, and upon searching his body certain letters were found. Has that man or the detenu who handed over those letters been prosecuted or brought before a court of justice? I pause for an answer. These cock and bull stories we all know. So there must be some other reason which prompted the Government of Bengal to come before the Government of India for the power which they are now seeking. It would be interesting to know what those reasons are, but as I said if the detenus are given proper and legitimate amenities I have no objection to the Bill going to a Select Committee.

Mr. Bhuput Sing (Bihar and Orissa: Landholders): Sir, I want to propose that the name of Mr. S. C. Sen be added to the Select Committee.

Mr. R. S. Sarma (Nominated Non-Official): Sir, I am grateful to you for giving me an opportunity to take part in this debate. This Bill primarily concerns Bengal, and therefore it is but proper that all the three previous speakers have come from Bengal. However I fail to understand how so many of these allegations made about ill-treatment of persons, the incidents in Hijli or the *lathi* charges, have anything to do with the Bill now before this House. This Bill simply wants to provide the Government of Bengal with powers to keep their detenus out of their province, with the concurrence of the Governor General; and so far as I have been able to follow the Home Member now and in the last debate, the reasons were plainly two; the first was that the Bengal detenu camps were slowly more or less being converted into political clubs; secondly, they felt that with the emotional Bengali youth, who loves his motherland more than anything else, if he knows that the moment he becomes a political detenu he is no longer to be with his own men, but will be deported to another province outside his own province, that will enormously restrict the recruiting ground for revolutionaries and anarchists. There are two classes among these political detenus, one a very dangerous type and other, a milder type. With a view to segregate these people it was necessary to take this dangerous type of anarchists outside the province. These are the two primary objects of this Bill and nobody so far has been able to controvert that argument of the Home Member. These are the two plain simple facts, and I have not heard a single argument against them.

Mr. S. C. Mitra: Why cannot the man be segregated in Bengal itself?

Mr. R. S. Sarma: The fact is that in Bengal these detenus may have opportunities of coming into contact with the emotional but less dangerous type of young men. It was not that the jail administration in Bengal had failed; and if I have risen today to give my support to this Bill it is because I want to repudiate most strongly the insinuation that the Deputy Leader of the Independent Party brought against the jail administration of Bengal. I wonder whether the Honourable Diwan Bahadur Ramaswami Mudaliar knows that the present jail administration of Bengal is in the hands of a very able and devoted Indian, an ex-Secretary of the Indian National Congress, an ex-President of the National Liberal Federation and a member of the Round Table Conference—Sir Provash Chunder Mitter. As a matter of fact, we have not heard of even a single case of indiscipline in Bengal. Of course, as the Honourable the Home Member said, there were a few cases of intercepted letters, but when Diwan Bahadur Ramaswami Mudaliar made capital of the fact that the smuggling of letters proved the inefficiency of the jail administration in Bengal, I must say that my friend was absolutely incorrect, because they were not smuggled at all; the attempted smuggling was detected; and that showed the efficiency of the jail administration. Of course, I have heard of one or two cases of inefficiency of jail administration in Bengal, and that was in the time when the jail administration was in the hands, not of a European, but in the hands of one who sits in the Independent Party, and whom the Diwan Bahadur claims as his chief, and if rumour is correct, Sir, that gentleman, who is now the Leader of the Independent Party, mismanaged the jail

administration during his time in such a way that the Governor had to telephone to him and take charge of the Department and hand it over to an Englishman.

Sir, it has always been a matter of considerable surprise to me that a certain gentleman who always puts his seal of approval to all measures of Government and who was opposed to all revolutionary movements at one time should now make speeches against the Government, of which he was once a Member himself. I was always surprised to read the speeches which he made then as a Member of the Government and now as a non-official Member. I have often tried to find out the reason and the nature of the difference in his speeches, and I felt that the nature of the difference in his speeches and ways was all the difference between appointment and disappointment.

I should just like to reply to one observation made by Diwan Bahadur Ramaswami Mudaliar in the course of his speech. He made a great point of the fact that the Madras Government or the Bombay Government were against this Bill. He went on to say that the Madras Government, which was one of the Governments which always put down subversive activities, and the Bombay Government, which was a full-fledged Governor's province, were all against this Bill. Now, what, after all, have they said? They said that they did not want these detenus there—nothing more and nothing less. This Bill does not say that these detenus should be put in the jails of other provinces. On the other hand, this measure gives power to the Bengal Government to send out their detenus to a place outside Bengal.

Mr. Amar Nath Dutt: Sir, I did not want to get up and make a speech, but in order to elicit certain information before I can make up my mind whether to support the motion for Select Committee or not, I rise from my seat. . . . .

Mr. A. H. Ghuznavi: But you are already in the Select Committee.

Mr. Amar Nath Dutt: I think it will be better if, instead of me, my leader Sir Hari Singh Gour and Diwan Bahadur Harbilas Sarda are put on this Committee, and I hope the Home Member will kindly approve of this. Sir, I am formally moving that the names of Sir Hari Singh Gour and Diwan Bahadur Harbilas Sarda be added to the Select Committee and that my name be removed. From para. 2 of the Statement of Objects and Reasons, it is clear that the object of the present Bill is to re-enact sections 4, 5 and 6 of the Supplementary Act of 1925 and thus to supplement the provisions directed against the campaign of terrorist crime in Bengal. I submit, Sir, that this does not convince me in the least because no reasons are given for the re-enacting of sections 4, 5 and 6 of the old Supplementary Act of 1925 save and except the bare statement that it is necessary. I expected some reasons for the re-enacting of these provisions, but for want of sound reasons, I am told that a long speech was delivered by the Honourable the Home Member, parts of which, as every one knows, were relevant and parts were irrelevant, by mentioning some of the happenings in Bengal which the Government were pleased to characterise as terrorist crime. Round this raged a controversy in this House which led my friend over there representing Bihar as a nominated Member . . . . . .

Mr. Gaya Prasad Singh: Does he represent my province?

Mr. Amar Nath Dutt: Yes, certainly.

Mr. Gaya Prasad Singh: Then he misrepresents my province.

Mr. Amar Nath Dutt: As I was saying, that controversy led my friend over there to make insinuations and personal attacks on an honoured and distinguished Member of this House. My friend need not have done that. I do not know what Sir Abdur Rahim's appointments and disappointments are. This much I know that the Honourable Member from Bihar. . . .

Mr. Gaya Prasad Singh: Why do you say Bihar?

Mr. Amar Nath Dutt: Because I am told he represents Bihar.

Mr. Gaya Prasad Singh: He is only a Nominated Member, and we know whom he represents.

Mr. Amar Nath Dutt: The Government as a rule select men in whom they have confidence, and so my friend Mr. Sarma comes in to represent the Bihar Government. Whatever it may, I can tell you that Sir Abdur Rahim is not a revolutionary.

Mr. A. H. Ghuznavi: Who said that he was a revolutionary?

Mr. Amar Nath Dutt: You called him a revolutionary. Of course, my friend knows Sir Abdur Rahim a little less than I know him because Sir Abdur Rahim comes from the same division from which I come, and I say that Sir Abdur Rahim comes from a very respectable family in a district which is far off from Eastern Bengal. I hope my friends, Messrs. Neogy, S. C. Mitra and others will excuse me for referring to East Bengal. Having said this, I must say if there is any revolutionary or extremist, it is my Honourable friend over there. If we only go back a quarter of a century, we find that Mr. A. H. Ghuznavi of the present day was leading a procession to the Federation grounds, presiding over a meeting there and saying all sorts of things, in order to drive away the Britisher from India.

Then, Sir, reference has also been made to happenings in Midnapore, and it was questioned what had these things to do with the subject matter before the House, but it is the Honourable the Home Member who introduced all these things into the discussion, it was he who introduced all these irrelevant factors into this discussion in order to make out a case for his Bill, to prove the existence of a terrorist movement in Bengal, and to justify the necessity of sending detenus out of Bengal to jails of other provinces. I think he would have done well to give reasons to support his proposition, but the main reason for which all these things are done is contained in clause 4 of the Bill, which takes away a very mild *habeas corpus* that is to be found in the Criminal Procedure Code, I mean, section 491, to amend which I have been attempting all these years, and if I had brought in a motion for Select Committee, my friend Sir Lancelot Graham over there would have immediately made a motion for circulation to elicit opinion.

(At this stage Mr. President resumed the Chair.)

Now, Sir, they want to do away with the *habeas corpus*. There is a provision in the Criminal Procedure Code which is very ineffective, and therefore whether you do away with the *habeas corpus* or not, we are justified in discussing the present situation in the country, and probably taking that view of the case, the Honourable the Home Member introduced several matters in his speech to convince us that the situation is so very grave that the Government ought to be armed with such powers as are now claimed here. What powers? He wants that the prisoners should

be transferred from Bengal to some other province. There are three objections to this course. If these men, who are Bengalis, are taken away from their own provinde and are to be detained in Ajmer-Merwara, I may tell you that the climate will hardly suit them. I myself was born in Bihar, brought up in Bengal, and in my earlier years I had been in the deserts of Rajputana. I know what a tiresome thing it is to be there. I had been also in the canal colonies of the Punjab. Those were not the days of electric lights and fans. I remember if the punkahwala went away at five in the morning and his substitute was late by even half an hour, we had to wake up from our sleep. We Bengalis have a constitution like that. We cannot bear the climate of the desert of Rajputana and Ajmer-Merwara. (*An Honourable Member*: "What about Coimbatore?") I had been in Southern India. I was in Nellore for a year and that was no better. Please don't take away the prisoners from their own province, to the climate of which they are habituated, unless of course you find that there is necessity, overwhelming necessity, for doing so.

There has also been an insinuation by my nominated friend from Bihar that they will spoil the other provinces. But that ground does not hold good now inasmuch as it is stated by the Government that the whole country is full of terrorists and revolutionaries. If that be so, I do not think that you gain much by transferring them to another province. But there is another danger. If there are no terrorists or revolutionaries in a province then you instil the poison of terrorism and revolutionary ideas into that province. So, in your own interests, I would advise you not to take this step. I would ask you seriously another thing. When you take away certain men under suspicion that they are connected with terrorism or revolution and you think that for the safety of the Empire you are entitled to do it, I beg to submit that you ought not to cause them any trouble in any way save and except confining them within certain specified areas, and you should allow them such facilities as are possible, that will be only humane. I expect that you will adopt that policy, that you will allow such facilities as are possible for their friends and relations, who themselves are not terrorists or revolutionaries, to see them and have communications with them. If you take them away from their own province to a distant province, that is hardly possible. That will be costly, and people may not find time to go over to another province. Then again there is the difficulty about food. All these things we submitted for the consideration of the House, and I hope that if they consider them they will find that there is no necessity for going to Select Committee over a Bill like this.

Sir, I cannot allow this occasion to pass without making one or two remarks about the happenings in Midnapore. As I have already submitted to the House, Midnapore is within my constituency, and I shall be failing in my duty if I do not say something about Midnapore, about which the Honourable Official Member, the District Magistrate of Midnapore, was pleased to submit some remarks before this House. He said that nothing was brought to his notice about the happenings at Midnapore that had been discussed here. I invite the Honourable Member's attention to the debate in this very House, and probably he was a Member also at that time of this House, though not Magistrate of Midnapore. In the Legislative Assembly Debates of the 12th July, 1930, he will find harrowing tales of oppression committed by the agents of the Government. It is not a very pleasing thing to refer to these things over and over again but my Honourable friend Mr. French's speech has provoked me to do

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[Mr. Amar Nath Dutt.]

so; otherwise I would have been silent. I shall read only two or three passages which ought to have been known to Mr. French, and up till now there has not been any contradiction after that responsible statement was made in this House. One sickening thing about all this affair is, nobody cares much what you do here or there, but if you go and insult our ladies in their houses, however meek we may be, we may not have the power to retaliate, we may have to bear all these insults and indignities perpetrated by your agents, but I ask you who are the custodians of our liberties and who say that they are the trustees of this great country, is it not for you to clear the conduct of your officers on these points? Just now we heard from the Honourable Member from Chittagong what was done to a lady there. As sons of our mothers can we hear patiently all those things? In fact, I would not have taken part in this debate and risen to oppose all this if I had not been provoked by that statement. I never knew that your agents in your name could soil your reputation to that extent. I will repeat the story, and I will remind my Honourable friend Mr. French that the same thing happened at Midnapore, which he will find reported in the Legislative Assembly debates:

"The members next visited the house close by where they found a girl about 18 years old in an advanced stage of pregnancy. Her name was Ambu. She was lying down on the verandah apparently still suffering from shock and pain. She was breathing with difficulty. Her eyes were closed with tears trickling. She made her statement with some difficulty. She complained of her breast being twisted and of her being kicked on the hip."

This is another instance. There you have heard the story of a father being locked up and the daughter being outraged by your agents. . . .

Mr. A. H. Ghuznavi: What is the period you are referring to?

Mr. Amar Nath Dutt: I am referring to the report that has been read by my Honourable friend Mr. Mitra. You were probably not listening, and any one, who will support a thing like that, has no respect for his mother or for womanhood.

Mr. A. H. Ghuznavi: On a point of order, Sir. Is that parliamentary language?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The word if applied to any Honourable Member is wholly unparliamentary, but the Honourable Member can make a general observation of that kind without reference to any particular Member.

Mr. C. S. Ranga Iyer: On a point of information. I should like to know if the Honourable Member does object to that particular phrase if he considers it unparliamentary?

Mr. R. S. Sarma: Is the Honourable Member aware that the statement which he has just now read to the House had at that time been officially contradicted by the Publicity Officer of the Bengal Government?

Mr. K. C. Neogy: Nothing of the kind. The Honourable Member is absolutely under a misapprehension.

Mr. Amar Nath Dutt: We always have two kinds of statements, one from this side and one from that side, but I ask every Member of this House to lay his hands on his breast and say whether he believes these statements. It is one thing to make a statement in order to please the

official Benches and thereby earn their goodwill and get advancement, and it is another thing to be true to one's own country and to lay these grievances before them. These statements were made in this House by a very esteemed gentleman who has been occupying a seat in this House from the very inauguration of the new Assembly for the last 11 years, and up to now, although more than a year and a half has elapsed, this statement has not been challenged. As regards the contradiction said to have been made by Mr. Sarma, I make bold to say that it has not been contradicted. It is one thing to have brass and another thing to have regard for truth.

Then again:

"At Subarnadighi, the girl in an advanced stage of pregnancy was found to be breathing with difficulty, tears trickling down from her eyes and she bore marks of molestation on her person. It is surprising that a case like this should have happened with a magistrate accompanying the police party."

I hope he is not a District Magistrate but a very subordinate magistrate of the class you have brought into existence. Then in a particular place called Kholakhali, the women:

"complained of severe assault by canes, fists and kicks. They also said that the clothes of some of them had been torn off their bodies and they produced some such clothes. A middle aged widow Kurani Dasi stated that she had been so roughly handled and pulled about that she fainted."

I appeal to you for help. Do not turn a deaf ear to our complaints if you want to keep your Empire. We may be meek, humble and incapable, but acts of this kind will bring ruination even to the mightiest of empires. Remember how many empires in this world have been lost in this way. One instance that comes to my mind and which I hope every one of you know is the destruction of the Empire of Ravan. Do not insult the womanhood of my country. You may chain us, send us off to the Andamans, but pray do not insult the women. I am not accusing the Chair, but I am addressing the Treasury Benches to look into the conduct of their agents. Let them make a thorough inquiry, and if they are satisfied, let them give relief.

Now, as regards the Bill, do not take away the right of *habeas corpus*, and pray do not deport these detenus to another province for the reasons which I have already stated. With these words I move that, instead of my name, the names of Sir Hari Singh Gour and Diwan Bahadur Harbilas Sarda be added to the Select Committee.

Mr. President: Do you move that as an amendment?

Mr. Amar Nath Dutt: Yes.

The Honourable Sir James Crerar: On the particular point raised by the Honourable Member in his amendment, I should like to put to him that the selection of names for the Committee was made, as usual, after consultation with the persons concerned. I do submit that it is hardly reasonable at this stage for an individual Member to make suggestions of this kind. It might perhaps put me under the necessity of making corresponding suggestions from the Government. I have not the slightest objection on personal grounds to either of the two distinguished Members of this House whose names were suggested, but I do think that this represents a disturbance of the well established procedure of this House which is convenient to all the parties. On that ground I very much regret I cannot accept the suggestion.

Mr. Gaya Prasad Singh: As Secretary of the Nationalist Party, I was not consulted in this matter at all.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): That is not the issue before the House. The rules and Standing Orders lay down that variation in the composition of a Select Committee can be made by a Member of this House by proposing an amendment. It has to be remembered that under the rules and Standing Orders, it is this Honourable House which appoints Select Committees. It has very frequently happened that by consent certain changes have been made in the names originally proposed, but if any Honourable Member is dissatisfied he is entitled to move that the original motion be amended by way of omission or addition. If the Honourable Member wishes to move an amendment substituting for his own name two other names, that amendment would be perfectly in order.

The Honourable Sir James Crerar: May I inquire as a matter of information whether my Honourable friend the Leader of the Nationalist Party was consulted and has he expressed a desire to sit on that Committee?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair has nothing to do with that. Names are suggested and any Honourable Member whose name is included in the proposal to serve on a Committee is entitled to get up and say that he should be excused from such service.

Mr. C. S Ranga Iyer: I was not able to catch what the Honourable the Home Member said.

Mr. President: That is the position; and therefore, if the Honourable Member wishes to say anything on the issue that is now before the House, I will allow him to do so.

Mr. C. S. Ranga Iyer: Sir, the Honourable the Home Member said something which I could not catch. I should like the Honourable Member to repeat exactly what he said.

The Honourable Sir James Crerar: What I inquired of the Honourable the Deputy President of the Nationalist Party was whether—I merely asked for confirmation of my statement—his party was not consulted in the normal manner, and whether the names suggested on behalf of that party had not been accepted and inserted in my Resolution?

Mr. President: That is not the issue, so far as the Chair is concerned. The rules and Standing Orders give each individual Member the right to move an amendment altering the composition of a proposed Select Committee; and I take it that the Honourable Member wishes to move an amendment to the effect that the names of Sir Hari Singh Gour and Diwan Bahadur Harbilas Sarda be inserted instead of his own. That amendment has now been proposed and is before the House.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 4th February, 1932.

LEGISLATIVE ASSEMBLY.

Thursday, 4th February, 1932.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President in the Chair.

QUESTIONS AND ANSWERS.

SEIZURE OF BUILDINGS BELONGING TO THE CONGRESS.

158. ***Mr. Gaya Prasad Singh** (on behalf of Rai Bahadur Sukhraj Rai): Will Government be pleased to state:

(*a*) the total number of buildings that have been taken possession of by Government as belonging to the Congress;

(*b*) whether these buildings will be returned to the Congress after the termination of the movement;

(*c*) whether Government will be responsible for the upkeep and maintenance of these buildings so long as these are under their possession; and

(*d*) whether they will compensate the owners for any loss that may happen to these buildings during the period of their possession?

The Honourable Sir James Crerar: (*a*) I regret that I have not the information which the Honourable Member asks for.

(*b*), (*c*) and (*d*). I would invite the attention of the Honourable Member to the provisions of Ordinance No. IV of 1932 and, in particular to sections 3, 6 and 9 of that Ordinance.

CONGRESS PROPERTY SEIZED BY GOVERNMENT.

159. ***Mr. Gaya Prasad Singh** (on behalf of Rai Bahadur Sukhraj Rai): Will Government be pleased to state:

(*a*) the total value of the properties that have been seized by Government as belonging to the Congress;

(*b*) where and how these articles have been kept;

(*c*) whether these will be destroyed or returned to the Congress when the movement is discontinued; and

(*d*) whether any special instructions have been issued by them to the Provincial Governments for taking proper care of the valuable documents and other articles which can not be easily replaced?

The Honourable Sir James Crerar: (*a*) and (*b*). I regret that I have not the information which the Honourable Member asks for.

(*c*) I would invite attention to the provisions of sub-sections (2) and (3) of section 4 and of section 6 of Ordinance No. IV of 1932.

(*d*) No such instructions have been issued.

Mr. Gaya Prasad Singh: Is it not possible for the Honourable Member to obtain the information asked for in this question?

The Honourable Sir James Crerar: I must ask the Honourable Member to give me notice of that question. It is a somewhat complicated matter.

Mr. Gaya Prasad Singh: The question is already there, namely, the total value of properties that have been seized by the Government as belonging to the Congress. May I ask the Honourable Member whether it is not possible to obtain the information?

The Honourable Sir James Crerar: The question of the valuation of properties is a very complicated matter and I am afraid I cannot promise to give the Honourable Member the information without further consideration.

Mr. Gaya Prasad Singh: But on what point the Honourable Member wants further notice?

The Honourable Sir James Crerar: My reply was that I cannot now on the floor of the House promise to obtain this information, but I shall consider the possibility of doing so.

INCOME-TAX ASSESSMENTS ON INCOMES BELOW RS. 1,000.

160. **Mr. Gaya Prasad Singh** (on behalf of Rai Bahadur Sukhraj Rai): Will Government be pleased to state:

(*a*) the total number of new income-tax assessments which have been opened on account of the lowering of the limit to Rs. 1,000 (one thousand);

(*b*) how much income they expect to derive from these new assessments;

(*c*) whether any instructions have been issued to make these assessments with sympathy and humanity this year as the assessees are quite ignorant of the income-tax laws and rules; and

(*d*) how will the assessments be made in the case of betel-shop-keepers, sweetmeat sellers and others who do not as a rule keep any account books?

The Honourable Sir George Rainy: (*a*) The Government have not this information. The number of new assessees is expected to be about 4 lakhs.

(*b*) 108 lakhs in 1931-32 and 1932-33 together.

(*c*) It is part of the general instructions to Income-tax Officers to give all possible help to assessees.

(*d*) The assessments on such cases must obviously be based on enquiries by the Income-tax Officer, as is usual where an assessee keeps no accounts.

ARRESTS MADE AND PROPERTIES CONFISCATED UNDER THE ORDINANCES IN THE NORTH-WEST FRONTIER PROVINCE.

161. ***Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon): (*a*) Will Government be pleased to lay on the table a statement showing the actual number of arrests made and deaths which occurred while dealing with the unlawful instigation in the North-West Frontier Province, under the Ordinances recently promulgated by H. E. the Viceroy, up to 31st December, 1931?

(*b*) Were any of them punished with fines in addition to imprisonment and, if so, what were the amounts of fines imposed on each one of them?

(*c*) Have any properties been confiscated under the said Ordinances? If so, will Government please state reasons for such confiscations and whether Government are prepared to return the same to their respective owners when the Ordinances are withdrawn by H. E. the Viceroy and the present civil disobedience movement ends?

Sir Evelyn Howell: (*a*) The number of persons arrested is approximately 2,500 under the ordinary law and section 3 of the Emergency Powers Ordinance. The number of deaths which have occurred is 14.

(*b*) No.

(*c*) Only Congress flags and red shirt uniforms have been confiscated and these it is not proposed to return.

Dr. Ziauddin Ahmad: Is the Honourable Member aware of the fact that all the Red Shirts in the North-West Frontier Province do not belong to the Congress. In fact, some of them are anti-Congress, and in spite of that they have been arrested.

Sir Evelyn Howell: I thought the Honourable Member was making a statement.

Dr. Ziauddin Ahmad: But is the Honourable Member aware of this fact?

Sir Evelyn Howell: No, Sir.

Dr. Ziauddin Ahmad: Will the Honourable Member make an inquiry into the matter as this is a very important fact. The Honourable Member is in charge of the whole affair and he ought to know these things and he ought to make inquiries about it.

ALLEGED ASSAULTS ON STUDENTS AND TEACHERS IN CHITTAGONG.

162. ***Mr. S. C. Mitra** (on behalf of Pandit Satyendra Nath Sen): (*a*) Has the attention of Government been drawn to the report published in the *Liberty* of the 8th October, 1931, under the caption "Assaults on Students and Teachers" relating to outrages on some boys and teachers of three H. E. Schools in the District of Chittagong by some military officers?

(*b*) If so, have Government instituted any enquiry? If not, why not?

The Honourable Sir James Crerar: (*a*) Yes.

(*b*) An enquiry was instituted by the Local Government.

Mr. K. C. Neogy: Do I understand the Honourable Member to say that an inquiry has been instituted by the Local Government?

The Honourable Sir James Crerar: An inquiry was instituted by the Local Government.

Mr. K. C. Neogy: With what results?

The Honourable Sir James Crerar: A report was made and it is still under consideration.

Mr. K. C. Neogy: To what effect is that report?

The Honourable Sir James Crerar: I am not prepared at this stage to make any statement on the matter.

Mr. K. C. Neogy: Is it not a fact that these incidents form part of a Black and Tan experiment that was made in Chittagong?

The Honourable Sir James Crerar: No, Sir.

Mr. K. C. Neogy: Will the Honourable Member kindly inquire from the European Association whether what I have said is not a fact?

(No answer was given.)

CLASSIFICATION OF CERTAIN ROADS.

163. ***Mr. E. F. Sykes:** Will Government please say whether the roads between:

(*a*) Delhi and Ajmer,

(*b*) Agra and Ajmer,

are classified as:

(i) roads of All-India importance,

(ii) inter-provincial roads, or

(iii) any other classification?

The Honourable Sir Joseph Bhore: It is assumed that the Honourable Member refers to the following roads:

(*a*) Delhi-Muttra-Bharatpur-Ajmer,

(*b*) Agra-Bharatpur-Ajmer,

and that the Honourable Member is aware that a large part is common to both and that parts of both are outside British India.

There is at present no general and comprehensive classification of roads in India into the categories mentioned in the question, but an *ad hoc* classification of this nature is a consideration in making grants from the reserve with the Government of India in the road development account. In this sense it may be said that the roads in question have been deemed to be of the inter-provincial class.

INSTRUCTION IN LANDING FOR OFFICERS AND MEN OF THE AIR FORCE.

164. ***Mr. E. F. Sykes:** Further to my question No. 292 of 18th July, 1930, and the answer thereto (regarding death of Sergeant Wiltshire in landing in an aeroplane at Risalpur), will Government please say what progress has been made in the instruction of non-commissioned officers and men of the Air Force in landing?

Mr. G. M. Young: No action has been taken in the direction indicated by my Honourable friend. As I stated in my answer to his question on the 18th July, only those officers and men of the Royal Air Force are trained to fly whose duties require that they should be capable of piloting aircraft. I am afraid that it would be out of the question, financially and otherwise, to train every individual who might have to go up in an aeroplane during operations, sufficiently in flying to enable him to fly an aircraft home and land it safely, in the rare event of the pilot being put out of action, while the machine and the passenger were undamaged.

INFLICTION OF IMPRISONMENT AND FINES UNDER RECENT ORDINANCES.

165. ***Mr. Goswami M. R. Puri** (on behalf of Mr. S. G. Jog): Have the Government of India issued any instructions or advice to the Local Governments in the matter of inflicting punishments of imprisonment and fine on persons convicted under the Ordinances recently issued?

The Honourable Sir James Crerar: The Government of India are in constant consultation with Local Governments regarding methods of meeting the present situation, but the Honourable Member is mistaken if he suggests that there has been or will be any attempt to interfere with the discretion of the courts.

CASE FOR BERAR PREPARED BY THE BERAR ALL-PARTIES CONFERENCE.

166. ***Mr. Goswami M. R. Puri** (on behalf of Mr. S. G. Jog): (*a*) Is it a fact that the Berar All-Parties Conference had prepared a case for presentation to the Round Table Conference and they had submitted that case either to the Government of India or the Foreign and Political Department to be forwarded to the Round Table Conference for consideration?

(*b*) Is it a fact that the said Berar case was not forwarded to the Round Table Conference?

(*c*) Is it a fact that the papers of that case were sent back to the All-Parties Conference authorities? If so, what is the reason?

(*d*) Is it a fact that the papers were sent back through a long channel and went through about 10 or 12 officers from H. E. the Viceroy and Governor General down to the village peon?

(*e*) Is it a fact that the papers were ultimately received by the sender after the Round Table Conference came to an end?

Sir Evelyn Howell: (*a*) A representation styled "Berar's position in Indian Federation" was received by His Excellency the Viceroy from the President, Berar All-Parties Committee, with the request that it might be forwarded to the President of the Indian Round Table Conference with the recommendations of the Government of India.

(*b*) Yes.

(*c*) The papers were transmitted, in accordance with the usual practice, to the Central Provinces Government with the request that the representation might be returned to the writer with an intimation that it could not be entertained by the Government of India, unless submitted through the local authority.

(*d*) and (*e*). The Government of India have no information on these points.

REALISATIONS FROM THE ADDITIONAL IMPORT DUTY ON SALT.

167. ***Mr. S. C. Mitra:** (*a*) Will Government please state the amount realised by the imposition of the additional import duty of four and a half annas per maund on imported salt?

(*b*) Will Government please state what amount was kept for the Central Government and the amounts distributed amongst the different Provinces?

The Honourable Sir George Schuster: (*a*) Total realisations from 18th March, 1931 to 31st December, 1931 amounted to Rs. 12,93,490-14-4.

(*b*) The total receipts up to the end of September 1931 amounted to Rs. 9,27,500. Out of this, a sum of Rs. 1,15,925, equivalent to one-eighth of the whole, has been retained by the Central Government and the balance distributed to the Provincial Governments concerned as follows:

	Rs.
Bengal	3,53,496
Assam	42,191
Bihar and Orissa	1,84,276
Burma	2,14,375
Central Provinces	579
United Provinces	5,568
Madras	144
Bombay	10,946
Total	8,11,575

The receipts for the period October 1931 to March 1932 will be distributed after the close of the year.

Dr. Ziauddin Ahmad: Have the Government issued any instructions to the provinces as to the manner of spending the contribution?

The Honourable Sir George Schuster: It would not be appropriate for the Government of India to issue instructions to Provincial Governments as to how they are to spend this money. We did however call the attention of the Provincial Governments to what was said in the course of the debate on the Salt Bill on the subject and that is what I undertook to do.

ELECTION OF A MEMBER TO THE COUNCIL OF THE INDIAN INSTITUTE OF SCIENCE, BANGALORE.

Mr. President: I have to inform the Assembly that Dr. Ziauddin Ahmad has been elected to represent the Assembly on the Council of the Indian Institute of Science, Bangalore. (Applause.)

PETITIONS RELATING TO THE HINDU WIDOWS' RIGHT OF INHERITANCE BILL.

Secretary of the Assembly: Sir, under Standing Order 78, I have to report that thirteen petitions, as per statement laid on the table, have been received relating to the Bill to secure a share for Hindu widows in their husbands' family property, which was introduced in the Legislative Assembly on the 17th February, 1931, by Diwan Bahadur Harbilas Sarda.

Petitions relating to the Bill to secure a share for Hindu widows in their husbands' family property which was introduced in the Legislative Assembly on the 17th February, 1931.

Number of signatories.	District or Town.	Province.
2	Tank	Bombay.
2	Tank	Bombay.
1	Surat	Bombay.
1	Benares City	United Provinces.
14	Nasik	Bombay.
12	Nasik	Bombay.
11	Benares Cantonment	United Provinces.
14	Wadhura City	Bombay.
4	Meerut City	United Provinces.
12	Ahmedabad	Bombay.
13	Ahmedabad	Bombay.
11	Benares Cantonment	United Provinces.
3	Meerut Cantonment	United Provinces.
100		

PETITIONS RELATING TO THE HINDU MARRIAGES DISSOLUTION BILL.

Secretary of the Assembly: Sir, under Standing Order 78, I have to report that twelve petitions, as per statement laid on the table, have been received relating to the Bill to remove certain doubts regarding the dissolution of marriages of persons professing the Hindu religion which was introduced in the Legislative Assembly on the 27th January, 1931, by Sir Hari Singh Gour.

[Secretary of the Assembly.]

Petitions relating to the Bill to remove certain doubts regarding the dissolution of marriages of persons professing the Hindu religion which was introduced in the Legislative Assembly on the 27th January, 1931.

Number of signatories.	District or Town.	Province.
2	Tank	Bombay.
2	Tank	Bombay.
1	Surat	Bombay.
1	Benares City	United Provinces.
7	Nasik	Bombay.
12	Ahmedabad	Bombay.
11	Ahmedabad	Bombay.
5	Meerut	United Provinces.
6	Benares Cantonment	United Provinces.
9	Benares Cantonment	United Provinces.
3	Meerut Cantonment	United Provinces.
70		

THE HINDU WIDOWS' RIGHT OF INHERITANCE BILL.

Mr. President: The House will now resume further consideration of the following motion moved by Diwan Bahadur Harbilas Sarda on the 26th January, 1932:

"That the Bill to secure a share for Hindu widows in their husbands' family property be referred to a Select Committee consisting of the Honourable the Home Member, Mr. R. K. Shanmukham Chetty, Mr. J. Ramsay Scott, Pandit Ram Krishna Jha, Mr. Hari Raj Swarup, Sirdar Harbans Singh Brar, Mr. S. C. Mitra, Mr. Muhammad Yamin Khan, Sir Hari Singh Gour, Mr. B. Sitaramaraju, Mr. A. Das and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four."

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, a very good case has been made out for a reference of this Bill to the Select Committee in the documents that have been placed before us. I have glanced through those documents, and I find that even those who have been opposed to the drastic, some of them call it the revolutionary, character of this Bill, have conceded that there is a necessity for extending a good deal of sympathy to the Hindu widows. Bangalore is a Brahminic centre in the Southern Presidency and the Brahmin widows of South India are the most unhappy, their plight being the most oppressed.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Question.

Mr. C. S. Ranga Iyer: There is my friend there who questions it. I do not, for a moment, deny that he has every right to question, because the problem before us, the problem that my friend the Diwan Bahadur has placed before us, is a controversial one. I do not for a moment state it is free from controversy. Even in this document I can see there is undiluted opposition from certain quarters to this Bill, but there is also a kind of diluted opposition, opposition diluted with sympathy for the Hindu widows, which sympathy my friend, the Raja Bahadur perhaps does not have.

Raja Bahadur G. Krishnamachariar: Not a bit of that sympathy.

Mr. C. S. Ranga Iyer: Then he has no sympathy for the Hindu widows.

Raja Bahadur G. Krishnamachariar: I deny what you say. I have not sympathy in the extraordinary manner in which you generally try to express that.

Mr. C. S. Ranga Iyer: Here is a gentleman from the sunnier South peopled with young widows. He says he has a good deal of sympathy, though his sympathy takes a different form to the sympathy felt for them by the social reforms on this side of the House. He did not care to enlighten us in his interesting speech what kind of sympathy he has, nor did he care to tell us what turn the sympathy in his case proposes to take.

Raja Bahadur G. Krishnamachariar: I did not know that my friend was going to deny my sympathy.

Mr. C. S. Ranga Iyer: As he stood up to deny the rights conceded for the Hindu widows in this Bill, it was up to him to say that he sympathises with them and to state in what manner he sympathises. His very attitude towards this Bill showed that he lacked the sympathy, but now that he has come forward to state that he has sympathy, when he gets another chance during the progress of this Bill, if this Bill is going to progress at all, he will show in what manner he proposes to show his sympathy. If he does not have that opportunity on the floor of this House, it will be for him to write to the newspaper or to deliver a lecture and show to the public in what manner the school of thought that he represents in this country sympathises with the Hindu widows. I do not for a moment deny it is a powerful conservative school of thought. I do not suggest that the Raja Bahadur was talking only for himself. I know there is a good deal of conservative opinion which is opposed to drastic social reform which the Diwan Bahadur contemplates, but I maintain that until and unless the other school comes forward with a practical proposition to ameliorate the condition of the Hindu widows, which is not satisfactory—even the Raja Bahadur, sympathising as he does as he now tells us, cannot for a moment deny that the condition of Hindu widows requires amelioration . . . .

Raja Bahadur G. Krishnamachariar: In what manner?

Mr. C. S. Ranga Iyer: It is for him to state in what manner, because he says he sympathises. How does he sympathise, to what extent does he sympathise in what manner does he propose to show his sympathy? We, on this side, have clearly shown in what manner we propose to show that sympathy. He took a negative and destructive attitude. I want him to come forward with a constructive suggestion . . . . .

Raja Bahadur G. Krishnamachariar: In what manner are they oppressed?

Mr. C. S. Ranga Iyer: My question is in what manner does he sympathise? For what does he show his sympathy? Is it because they are oppressed?

Raja Bahadur G. Krishnamachariar: Not because they are oppressed, but because they are denied some right.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): How do you meet that right?

Mr. C. S. Ranga Iyer: He concedes every sympathy because some right is asked for but it is denied. He sympathises with the asked-for right, though not in the manner in which it is asked for, because he realises that some kind of right is denied. Otherwise, why should he sympathise at all? People do not sympathise with those who do not need sympathy, that is our whole case. Even the Raja Bahadur cannot deny that the plight of Hindu widows requires amelioration. I will refer, Sir, to as competent an authority—I do not want to put it higher than that—as the Raja Bahadur, coming from the same part of the world from which he comes. Competent authorities have observed that sympathy must be shown to the Hindu widows in a practical manner. I shall read to you the view which is held by the District and Sessions Judge of the civil and military station of Bangalore. He says:

"It is a necessary piece of legislation as it affords great relief to Hindu widows whose rights under the existing system of Hindu law are meagre and require to be enlarged in view of the rapidly changing conditions of the Hindu society in modern times."

My friend the Raja Bahadur and the powerful school of thought that he represents in this House do not want the Hindu widows to be conceded the rights that modern civilisation and altered conditions compel that they should be conceded. Sir, this Bangalore authority . . . . .

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Is Bangalore in British India?

Mr. C. S. Ranga Iyer: My friend Mr. Amar Nath Dutt wakes up. He asks if it is in British India. Bangalore is in British India and is not in British India.

Raja Bahadur G. Krishnamachariar: It is nowhere in British India. It is a part of the civil and military station which has been transferred to the administration of the Governor General in Council in his executive capacity and not in his capacity as Governor General in Council under the Government of India Act. Therefore it is not in British India.

Mr. C. S. Ranga Iyer: But all British laws are extended there.

Raja Bahadur G. Krishnamachariar: They do not apply *suo moto*. They are governed by British laws only if they are extended there.

Mr. C. S. Ranga Iyer: These interruptions are very interesting because my Honourable friend has conceded that there is an oasis in the desert, the civil station, which is controlled by some authority outside. I do not want to go into the legal quibble. All that I am concerned with is that here is a little bit of territory in the neighbourhood of Bangalore and he is a District and Sessions Judge who says what I read just now. But, Sir, he is not a whole-hearted supporter of this Bill and he makes out a case for this motion, namely, its reference to Select Committee. He says:

"I would, however, like that suitable provision should be made in the Bill to make it clear that a Hindu widow who takes an absolute estate in her husband's share of the joint family property under clause 3 (1) of the Bill takes it as long as she does not re-marry and that she is bound to return her husband's share to the heirs of her deceased husband as on the date of his death in case she re-marries."

My friend Diwan Bahadur Sarda says he has taken notice of this fact and incorporated it in his Bill. Be that as it may, we shall now proceed to Diwan Bahadur Sarda's own little territory, Ajmer-Merwara. The authority here points out something which is also in favour of the reference of this Bill to Select Committee. Sir, it is a statement containing in summary the views of Diwan Bahadur K. L. Paonaskar, Munshi Shiva Charan Das, Special Additional District Judge, Ajmer-Merwara, the Municipal Committee, Beawar, the Commissioner, Ajmer-Merwara, the Judicial Commissioner, Ajmer-Merwara, and the Municipal Committee, Ajmer, on the Hindu Widows' Right of Inheritance Bill. Diwan Bahadur K. L. Paonaskar is of opinion:

"that the difficulty will be largely solved if sub-section (1) of section 3 of the Bill is so amended as to entitle a widow to the profits of the share of the joint family property as her husband would under the Mitakshara law have been entitled to, had a partition taken place in his life-time provided she remains chaste during her widowhood; but in case she re-marries, she should be subject to the provisions of section 2 of the Hindu Widows' Remarriage Act, 1856. Further, he thinks that sub-section (2) of section 3 of the Bill would be made clearer if the words 'dies without leaving a male issue or adopting a son in his name' be inserted between the words 'Hindu family' and 'the widow' occurring in it."

Here again is a case for its reference to the Select Committee, so that what is considered objectionable in this Bill can be deleted and improved upon in the Select Committee.

Sir, I have now quoted a South Indian opinion from Bangalore about which my friend the Raja Bahadur was getting a little nervous because he does not tolerate difference of opinion in his own neighbourhood. I have also quoted an opinion from Ajmer-Merwara from a group which is not very enthusiastic about social reform as my friend the pioneer in the wilderness of Indian superstitions; but at the same time they are keen that some kind of protection should be given to the Hindu widows. Now I shall come to a Bengal opinion, which is also incidentally the opinion of a Judge of the Allahabad High Court. Justice Mukherji makes the following observations:

"Apparently the Bill is meant to apply only to the case of a widow where the deceased husband has left no son. If this is so the Bill should be made clear on that point."

It is for the Select Committee to make it crystal clear, and my friend Diwan Bahadur Sarda says he has no objection to it. But supposing he has objection to it, even then it is for us to go and fight him in the Select Committee and ask him to agree with us in this matter. Therefore Justice Mukherji has also made a case for the reference of the Bill to the Select Committee.

Now I shall go down again to Raja Bahadur Krishnamachariar's own country and quote the opinion of the Madras Government, for I am sure even the Raja Bahadur, conservative as he is, cannot deny that some kind of authority attaches to the opinion expressed by the Madras Government. and I find in their opinion something to help us in this matter. Diwan Bahadur T. Venkatanarayana Naidu, who is Secretary to the Government of Madras in the Law Department, writes to the Secretary to the Government of India in the Legislative Assembly Department, and his opinion is as important at any rate as that of Raja Bahadur Krishnamachariar:

"In the opinion of this Government it would be sufficient if the widow is allowed an equal share, along with the sons, of the property left by her husband and the whole of it in the absence of sons. I am to add that, as suggested by the Women's Indian Association, Tinnevelly, provision may be made in the Bill to the effect that if the widow remarries the property will revert to her previous husband's heirs."

[Mr. C. S. Ranga Iyer.]

This, Sir, again is a matter for consideration and adjustment in the Select Committee, and I believe Raja Bahadur Krishnamachariar with his partial sympathy for the Hindu widow, ought to agree to serve on the Select Committee, instead of stirring up strife on the floor of this House.

And now, Sir, let me come to the Punjab and let us see what opinion is held in the Punjab. The Punjabis, I admit, are in many respects more progressive than the Madras people in matters of social reforms. It is in the Punjab that we have big social reform movements, such as the one led by Dayanand Saraswati. It is again in the Punjab that the great Sikh Gurus unfurled the banner of social reform, and therefore perhaps the Punjab opinion must be considered as very progressive generally in matters of social reform. But the opinion that we have got is fairly cautious. Mr. Ogilvie, the Home Secretary to the Government of the Punjab, in his communication to the Secretary of the Legislative Assembly Department says:

"I am in the first place to point out that the Bill is so loosely drafted that though it is apparently intended to apply to a childless widow only, its actual terms give a widow preference even over any children of her own by her late husband."

The loose drafting of the Bill is a matter for improvement in the Select Committee:

"Secondly no provision is made in the Bill for succession when there is more than one widow, and finally although the discussion in the Assembly dealt entirely with the case of the Hindu widow and the short title of the Bill is the "Hindu Widows' Right of Inheritance Act", the Bill as introduced applies to Jains and Sikhs as well as Hindus."

These are very important matters, and I think there is a great deal of force in what the Punjab Government have stated; this is a matter which should be very carefully considered in Select Committee.

Then I shall proceed to the Central Provinces Government. The Vindhya Mountains stand between the superstitious and non-progressive South and the rather progressive North. The opinion of the Central Provinces Government will also be helpful to the motion before us, namely, its reference to Select Committee. The Central Provinces have taken a good deal of interest in recent times in matters of social reform. There was a touring commission which inquired into the question of early marriages, and now it is for us to consider here, in the light of what the Central Provinces have stated, the question of enforced widowhood which is an inevitable and unfortunate outcome of early marriages. Incidentally it is in the fitness of things that Diwan Bahadur Harbilas Sarda should have come forward with a motion of this kind, especially after the triumphant march of his Bill into an Act through the Southern Presidency where he broke many a heart of the orthodox people.

In this connection I may tell a very interesting story which is apposite. In one of the meetings held in a village in the neighbourhood of the residence of Raja Bahadur Krishnamachariar, a very vehement and very orthodox Hindu lady described rather maliciously Harbilas Sarda; of course she did not refer to Harbilas, she only said Sarda or Sarada; and Sarada in Madras is the name of a woman and she presumed that Sarada was a venerable lady with unmarried children and therefore she said this was a mischievous measure and arose in Sarda's domestic troubles

(Laughter). I am sure the same charge will be levelled against "Sarada" as they call him, but they do not understand that Sarda is a masculine gender. (Laughter.) . . . .

Raja Bahadur G. Krishnamachariar: "Have we got to die?"

Mr. C. S. Ranga Iyer: My friend inquires whether we have got to die . . . .

Raja Bahadur G. Krishnamachariar: "Sarada" in Tamil means "Have we got to die?"

Mr. C. S. Ranga Iyer: The Tamil language is as elastic as India rubber, as my friend suggests. However, another malicious suggestion will emanate from the same quarter, suggesting that Sarda has got a large number of widows in his family who are likely to be deprived of their property, and that is why he has brought forward this malicious piece of legislation. But, coming to the Central Provinces which ought to mitigate the superstitions of the South:

"The Governor in Council is opposed, in particular, to the provisions of section 3 which appears, perhaps unintentionally, to disinherit the sons, grandsons, and great-grandsons of a man who dies while not a member of a joint family and which leaves undecided what is to happen if a man leaves two widows of whom one subsequently adopts a son."

I admit here are complications and these complications are matters for the Select Committee to thrash out, and I am sure my friend the Diwan Bahadur, who is suggesting that a widow means a co-widow under the General Clauses Act, will agree that these are matters for him to bring forward in the Select Committee. I think if the Law Member were put in the Select Committee he might perhaps attack some other clauses, and my friend the Raja Bahadur is already looking sharply at the manner in which Diwan Bahadur Sarda is going about co-widows. But I think the Central Provinces Government's suggestion ought to be helpful in the matter.

My friend, Sir Hari Singh Gour, is getting very enthusiastic like my friend Diwan Bahadur Sarda about matters of social reform; and his enthusiasm is proving infectious on this side of the House because when social reform ideas used to play havoc when I was on this side of the House and my friend Sir Hari Singh Gour was on nearly opposite Benches, he did get a good deal of sympathy from this side of the House. Though I was a practical social reformer, I always held the view at the time, and even now I hold it, though I am now going to carry my view into practice by refusing to vote with them—my view always has been and is even now my private view, which I may express for the benefit of Members in this House, that so long as we are governed by an irresponsible system of government, so long should we be rather cautious in rapidly forging ahead with social reform legislation. The Government have no authority behind them; and then there are our friends like Raja Bahadur Krishnamachariar who cannot be lightly brushed aside; though he is in a minority perhaps in our party for his orthodox opinion, in certain parts of the country he will, I think, be in an aggressive majority. Now when the reforms are in the melting pot, I think it will be well for us to ponder and not rapidly rush on with social reform legislations, for the very simple reason that it would be up to a self-governing country with responsibility to introduce such legislation because a measure of this kind would involve the fall of the government if the government did not enjoy the confidence

[Mr. C. S. Ranga Iyer.]

of the country. Social reform measures are passed through this House with what result? They are so many dead letters which cannot be acted upon. There is for instance the famous Sarda Act, which so far as the South is concerned is a dead letter. It is not acted upon; it is being defied and the defiance is being ignored, because the Government do not want to have two troubles at one and the same time; they have already the non-co-operation trouble and they do not want a sort of civil disobedience against immature social legislation. Mere passing of a legislative measure in this House has merely an educative value. It cannot enforce its will on the people, and unless we go to the country on a social reform measure of this kind and take the verdict of the country, this will all be mere paper legislation.

Raja Bahadur G. Krishnamachariar: Why do you not wait till then?

Mr. C. S. Ranga Iyer: My friend asks me, "Why do you not wait till then?" Personally if you will accept my present suggestion I am quite willing to wait till then. I consider all social reform legislation and every other legislation . . . .

Sir Hari Singh Gour: No, not my Bill.

Mr. C. S. Ranga Iyer: . . . . including my friend Sir Hari Singh Gour's Bill as a side issue, as side-tracking the major issue, as taking away the attention of the people from the constitutional issue, whether it is political development in a constitutional way outside or inside, or for that matter in an extra constitutional way. Why should this House in this transitional stage care to take notice at all of extremely controversial questions and try to take away the attention of the country from the issue about which we read every day in the newspapers?

Raja Bahadur G. Krishnamachariar: Hear, hear.

Mr. C. S. Ranga Iyer: If my friend over there who says "Hear, hear," will join me in this House in opposing every Government measure and throwing out grant after grant just as we rejected the Finance Bill, I will ask my friend Diwan Bahadur Harbilas Sarda not to proceed with measures of this description, however, important they may be. I reserve to myself the right of persuading this House to reject grant after grant on the issue of the rejection of the Finance Bill, and therefore the grants will have no legs to stand upon, on the issue that Mahatma Gandhi, being now in jail, you cannot proceed with the reforms, because the Round Tablers have not got a scrap of authority. That is the issue I propose to raise on the floor of the House when the time comes, because even when there is no united opposition in this House, as there was when Pandit Malaviya led the opposition which could by no means be described as an extremist opposition, this side of the House rejected many a grant. To-day the Oppositionists are on their trial here. If my friend Raja Bahadur Krishnamachariar will come forward and assist me, then I for my part may say that Diwan Bahadur Harbilas Sarda will do well not to rush through these social legislations. We cannot think of anything else than the main struggle which is before the country. We must be blind of one eye like Nelson who saw only the British flag of success, the British victory, when he said England expects every man to do his duty; even so, we see before us only one thing, the Indian flag, the Indian victory, the Indian struggle, India's duty—India expects every man to do his

duty. Such being the case I would strongly appeal to Members on this side, whether this Bill goes to the Select Committee or not, not to enthuse over social reform until the political question is settled. And when that is settled there will be a split in the country about social reform, the Conservatives on one side, as in England, and the Liberals and Radicals on the other, and then will be the time for us to bring forward social reform measures and go to the country with a raging tearing campaign enthusing public opinion. It may be that the Liberals may be in a minority; it may be that the Radicals and social reformers may be up in arms against the Conservatives, but there will be one common aim. That is the way to help forward the cause of social reform, that is the way to fight the battle of social reform, and not by introducing measures in this House which have only an educative value, which of course I appreciate. I have just now received a brief note from the leader of my party which I hope he will make adequate use of, through the Honourable Member in charge of this motion.

Raja Bahadur G. Krishnamachariar: I take up the challenge, Sir, just . . . .

Mr. President: You have already spoken.

Raja Bahadur G. Krishnamachariar: I do not want to speak again, but I simply want to say . . . .

Mr. President: I cannot allow you to make a speech again, but is it a personal explanation?

Raja Bahadur G. Krishnamachariar: Yes, Sir; it is only a personal explanation. I take up the challenge thrown out by my friend. I am very glad that the real object of my friend has been given out that all this legislation will go out when we get the new Government. We are quite prepared to fight the Government. So far I have always supported this side in all matters whenever I was convinced that Government were not in the right, and there is no use in asking me to make agreements in advance. I am opposing everything that is not good for the country, and so I want this motion to be withdrawn.

Rai Bahadur Lala Brij Kishore (Lucknow Division: Non-Muhammadan Rural): Sir, I rise to support the motion to refer the Bill to a Select Committee. The object of the Bill is to ameliorate the condition of the Hindu widows which is admittedly very deplorable at the present state of Hindu society. In some families the widows are, no doubt, treated with great respect but that is because of the love and affection in which they are held by individual members of the family. Their legal position, however, is practically nil, for they are at the tender mercy of their relations and male members of the family. I think the little comfort that a Hindu widow requires, which is very little indeed, should be ensured by giving her a portion of the family property by law. This Bill, if passed, will, in addition to doing good to the widows, help in strengthening the joint family system, for the widows, if not starved or oppressed and ill-treated, will remain in their families and keep the family together and keep up the old traditions of Hindu society. Thousands of widows are now driven away from their homes and the way they are forced to live is a standing disgrace to Hindu society. If they are given a distinct position and given a specific right to a portion of the family property, they

[Rai Bahadur Lala Brij Kishore.]

will add to the unity and the happiness of the whole family for as Manu truly says, "Where women are respected the families prosper and happiness reigns".

The Hindu widow is a very unlikely person to waste her portion of the family property; it will virtually remain with the sons and heirs, but it will ensure a peaceful position to her in the joint family. A happy and a contented widow will bring sunshine to a family otherwise darkened by shadows of family differences.

As to what should happen to the share in case she re-marries, that may be clearly set out by a clause in the Bill and such other defects as may be found in the Bill in its present form can be set right in the Select Committee.

I, therefore, heartily support the motion that the Bill be referred to the Select Committee.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadan Rural): Sir, I rise to oppose the Bill, and that for two reasons, firstly, on the ground that this Assembly, composed as it is of Members most of whom are ignorant of Hindu Shastras, have no right or at least should not be encouraged to deal with religious and social laws, and secondly, on the merits of the changes that are sought to be introduced. We have the greatest sympathy for a widow on the score of her widowhood; we have not only the greatest sympathy for her, but we have also the greatest reverence for her. In fact, a chaste widow is regarded as a deity. We repudiate the idea that a widow is not treated with proper consideration. As a matter of fact, almost invariably she is the mistress of the House. I have listened to the various speakers who have advocated the cause of the widow, and I have not the least doubt about their sincerity, but I am sorry they have utterly failed to appreciate the wisdom of our ancient sages. Sir, the grievances of the Honourable the Mover of this Bill in regard to the position of our Hindu widows are two-fold; firstly, that their position under the Mitakshara is worse than under the Dayabhaga, and in his attempt to remedy the supposed evil he has made a mess of things. The expression in clause 3 "under the Mitakshara law" will give rise to innumerable complications. If the expression were shifted to a different position, the matter would be improved no doubt, but still I would oppose the Bill because at any rate the demand should have come from those who are affected by the law or at least from a Hindu Member. (*An Honourable Member*: "The Honourable the Mover is a Hindu.")

Now, his second point is that the widow is not allowed an absolute right of inheritance. He has suddenly discovered this evil, but I ask him, is that the only thing which she is not allowed to enjoy? There are lots of other things which she is not allowed to enjoy. She is enjoined to eschew a mattress, a meat diet, betel-nuts, and lots of other luxuries. Does the Honourable Member intend to give her an absolute right of inheritance in order to enable her to procure these things? (*An Honourable Member*: "Why not?") Certainly not.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): The law nowhere forbids a widow from using a mattress. (*Pandit Satyendra Nath Sen*: "It does.") My object is . . . . .

(At this stage Pandit Satyendra Nath Sen also was standing.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. Both cannot be on their legs at the same time.

Pandit Satyendra Nath Sen: Manu, our greatest law-giver, says:

"Bhárya putrashcha dásashcha traya evádhanáh smritáh."

"A woman has no absolute right to property."

Has the Honourable Member pondered over the principle involved in this injunction? The principle involved is manifold, or at least two-fold. One belonging to the weaker sex and therefore having a weaker mind should not be given an absolute right lest she might squander the whole property. It will also give rise to complications in this way. Suppose a widow remarries or deprives her reversioners, what will be the position of the reversioners? They will go on offering *pindas* to the deceased . . .

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): A widow cannot re-marry.

Pandit Satyendra Nath Sen: They can under the new law,—the so-called marriage of course, not a real marriage. The reversioners will go on offering *pindas* without the least chance of inheritance, and this will completely destroy the principle of the *pinda* theory which is:

"Pindadata dhanam haret."

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): You say it is against Manu. What about Stridhan?

Mr. R. K. Shanmukham Chetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): Have you any objection to the Bill applying to the Mitakshara families?

Pandit Satyendra Nath Sen: You have combined them together, and this will give rise to complications which will not be very easy to solve. The Honourable the Mover told us the other day that he was himself a judge for several years and he ought to have known better.

Diwan Bahadur Harbilas Sarda: I know better and that is why I have come forward with this Bill.

Pandit Satyendra Nath Sen: To resume my argument, what is the position of a woman? A woman according to the Hindu Shastras is never an independent being; she is always under the protection of somebody. The same law-giver says:

"Pitá rakshati Kaumáre bharttá rakshati yauvane
Rakshanti stharire putráh na stri swátantryam arhati."

"A woman is in the protection of her father during her infancy, in the protection of her husband in her youth, and in the protection of her son in her old age."

She is never an independent being, and what will she do with an absolute right to property? She is never a *swatantrá*, which in Sanskrit means "a libertine". So I hope that the House will reject this Bill altogether.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): Sir, I was very pleased to hear the speech of the last speaker. He is a great admirer of our law-giver Manu, and he has quoted two very

[Mr. B. V. Jadhav.]

excellent *slokas* from Manu Smriti. He is hugging to his heart the doctrines of Manu as far as women are concerned, but I am very sorry to observe that with regard to men he is quite oblivious to the texts of Manu. (*An Honourable Member*: "How?") May I throw one in his face?

Pandit Satyendra Nath Sen: You know the Shastras?

Mr. B. V. Jadhav: Yes. Manu says:

"Yo nadheetya dwijo vedanamyatra kurute sharamam
Sa jivanneva shudratvamashu gachchhati sanvayah."

What does it mean?

Pandit Satyendra Nath Sen: It has nothing to do with the Bill under discussion.

Mr. B. V. Jadhav: It means, "A Brahmin who, neglecting the study of the Vedas, learns any other subject, in this very life becomes a Sudra; not only himself but with all his descendants". How many Brahmins in this House at all events will stand that test? (*An Honourable Member*: "None.")

Dr. D. K. Lahiri Chaudhury: Every one of them. May I inform the Honourable Member that it is only the Brahmins that can take part in politics. They are politicians, because Vasishta was the Minister of Ramachandra.

Mr. B. V. Jadhav: I have read Ramayana and I realise the position of Vasishta. Let him be there in the Ramayana and let him not come to this Assembly.

Mr. D. K. Lahiri Chaudhury: But this is politics.

Mr. B. V. Jadhav: Certainly, and according to the present day ideas every citizen has got a right to speak on politics.

Mr. D. K. Lahiri Chaudhury: Then every citizen is a Brahmin.

Mr. B. V. Jadhav: When thousands and thousands of Brahmins are willing to close their eyes to so many sayings of Manu, I do not know why my Honourable friend over there should insist upon bringing forward the worn-out argument that a woman does not deserve to inherit anything and that she should be under the protection of somebody during every stage of her life.

Mr. Amar Nath Dutt: Two wrongs do not make one right.

Mr. B. V. Jadhav: Sometimes they do.

Mr. C. S. Ranga Iyer: But two rights make one wrong. (Laughter.)

Mr. B. V. Jadhav: My Honourable friend has a very high regard for the widow, and I really sympathise with him. The lot of the widow is no doubt very pitiable, and the various opinions that have been elicited from the gentlemen to whom this Bill was referred show the sympathy and concern of these gentlemen for the welfare and betterment of the widow. Hindus do honour and cherish their widows, and almost in every family the widow is honoured, for one simple reason that she is the only cook in the family. (Laughter.) She will not eat the food cooked by others, and therefore she has for her own benefit to cook, and she does it for herself and also for the other members of the family. The lot of the widows in sacred places like Benares and Phandarpur is known to everybody, and I am not going to refer to it. Let not dirty linen be washed in this House at least. The lot of the Hindu widow is no doubt very miserable. This is due to her economic dependence upon somebody and when that economic dependence is taken away and she gets the right to hold property in her own right, then her miserable condition will improve. It may be a horrible thought to my Honourable friend to see a widow using a decent bed. For myself I have not got any horrors to see her comfortable. Perhaps the conscience of my friend may be touched if he sees her taking two meals a day. According to his ideas she ought to be satisfied with one meagre meal. I think for the good of the country and of its inhabitants, even including the Hindu widows, they ought to be in a comfortable position. They ought to get sufficient food. They ought to lead a life of ease. As we claim that between man and man there ought to be no distinction of caste, colour or creed, there ought to be no distinction between the superior sex and the inferior sex. Hindu law has been treating the weaker sex very badly up to this time and it is necessary now that the equality of the sexes should be established. Whether it is possible in India now remains to be seen. If it is possible in other parts of the world it ought to be possible in this country also. The proposal of the Diwan Bahadur is a very modest one.

12 NOON.

(At this stage, there was a shout of *Inqilab Zindabad* from the Visitors' Gallery where some ladies were sitting.)

This is a voice raised by a woman. It has been raised claiming the right of equality for her own sex. As long as a woman lives with her husband and family she lives in great comfort, but as soon as her protector is taken away by misfortune, it is very hard upon her that she should be reduced to poverty and to privations. The Bill is a very moderate one and deserves the support of everybody. I give my support to the motion of Diwan Bahadur Harbilas Sarda.

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): I am not an orthodox Hindu of the type of Raja Bahadur Krishnamachariar. We in Bengal do not profess Hinduism of the orthodox type that prevails in certain parts of India, but, Sir, I oppose this Bill. If there is to be Hinduism in this country, and you cannot get rid of that, there must be its social structure as it has been for the last 5,000 years. The Bill as introduced now will be destructive of Hindu society and the joint family system, and will be destructive of the position of a Hindu woman in the Hindu household. What is the object of this Bill? We have been hearing from Mr. Ranga Iyer that all the defects which have been shown by various persons can be remedied in the Select Committee. Now, the first portion of the Statement of Objects and Reasons will show what the principle of the Bill is:

"The Present Bill proposes to give relief to Hindu widows by giving them a share in family property and making them sole owners of their deceased husband's personal property."

That is the principle of the Bill, and by accepting the motion to refer the Bill to the Select Committee, the Select Committee will be committed to the principle. They cannot alter that. Then what does the Bill itself say? It says:

"Where the husband of a widow was not at the time of his death a member of a joint Hindu family, the widow shall take all his property absolutely."

[Mr. S. C. Sen.]

Now this takes away the right of the husband to make a will. The testamentary right is also taken away by Mr. Sarda. How is that to be remedied? Is that a light thing to be contemplated by the Bill? Now, we are fighting for independence all over the country and the little liberty which we have in social matters is going to be taken away by this Assembly. This is a thing which we cannot allow. Let Mr. Sarda wait until there is a more favourable opportunity, when the reformed constitution will be at work, and then we shall see whether such a Bill can be passed or not. If the provisions of this Bill are passed today, all sort of complications will arise, for instance, the Hindu Widows' Remarriage Act will have to be remodelled and various other Acts will have to be passed. This is not a case where legislation can be made piecemeal. It ought to be taken up properly. The Bill is so dangerous, if I may say so, and so complicated, that in spite of the fullest sympathy for Hindu widows, I cannot allow such a Bill to be passed.

Mr. B. N. Misra (Orissa Division: Non-Muhammadan): I rise to oppose this motion very strongly and very vehemently and with all the strength that I possess. I was ashamed to hear my Honourable friend Mr. Jadhav saying that Hindu widows become cooks. He said he did not like to wash any dirty linen in public but that is what he did indirectly. No sooner a child is born then the mother allows her breast to be sucked and feeds the child. Which woman does not do it? In which country, in which clime and in which age is this not done? If she allows her breast to be sucked and she feeds the child and she feeds her grown up children and if she feeds other members of the family, what sin is there? What sin is there today if she can do it and if she does it? My friend, Diwan Bahadur Sarda, said that the position of a Hindu widow is bad. I have lived in this world nearly half a century, I do not know that a Hindu widow has a less respectable position in society than any other member of the family. She is called the "goddess" of the house, the *Grihalakshmi*. Even from the time of marriage a *Kanya* attains a position of great respect. From the time of marriage she is allowed to walk in front and first and then the husband *Bara* has to follow (Hear, hear), as everyone who knows a Hindu marriage can testify. Even from the moment she is married as a child—and of course we have child marriages—she is accorded all respect in the House by everybody. Now it is said that Hindu widows are not given a share in the husband's property. But, Sir, supposing a family consists of only a husband and a wife and the husband dies. The widow gets the possession of the entire property for her maintenance, but she has to perform all her duties towards her dead husband. Supposing she is a mother when she becomes a widow, supposing she has three or four children, what is the position? Though according to Hindu law the sons are entitled to the property, still the mother is the legal guardian. Where then is her position inferior? She has the enjoyment of the entire property, and she brings up the children, and she looks after their education and so on. Supposing a woman has four or five children and becomes a widow at the age of 20 or 25. What happens? Now the situation arising out of the passage of this Bill will be that many people will try to induce her to re-marry. Supposing she gets re-married and gets a share in the property, and gets children by the second marriage what becomes the position of these children whom she gave birth to by first husband and who become the children now of so and so. The only result will be a disruption in the family and gross neglect of the children,

because in the absence of the mother who re-marries and possibly goes away and gets children by the second husband the uncles and others naturally will not care for them so much as if she had remained on as part and parcel of the family of her deceased husband. Even in the joint family, there are other brothers and still the widow is there to look after those children, but if she gets a share, then naturally the other members would not look after the children and what will be the condition of the latter? If therefore she remains in the family, her position is in no way inferior or bad, although she may not get a specific permanent share in the property, because the children are there and they get the property of the father, and when they grow up they look after the needs and wants of the mother. Supposing however she has no children and becomes a widow, then even in that case the law allows her all necessary privileges, and she is entitled to maintenance, in fact to everything, and she is in no inferior condition. Of course, if she has children, she at the same time gets the exalted position of the mother and she commands additional respect. So, where is the worse condition attaching to the widow under the present system? Now this Hindu system has stood for no less than 5,000 years, and nowhere has any difficulty ever been felt. Of course, "spare the rod and spoil the child". If a person is not what she should be, if she is not behaving properly and her conduct is improper, certainly she deserves chastisement or punishment. That is what the Hindu law contemplates. The Hindu social system contemplates that where she does not follow the system of her religion, law and society, the maintenance cannot be continued. But in every case where she conforms to the rules and tenets of her religion, law and society, all her agnates or relations are supposed to maintain her. There is no torture or cruelty in this case. It all depends upon her conduct whether she is liked or disliked. If she does something which is forbidden and therefore disliked she suffers. She has no reason to complain justly. Innovations which were never contemplated by the Hindu Shastras and run counter to our religious principles are sought to be introduced by men who, after all, are only imitating and aping their neighbours or other nationalities, but, Sir, Hindu society has stood all these centuries the onslaughts of Muhammadan and other invaders and the onslaughts of social reformers. These onslaughts have become I regret to say more frequent in this Legislative Assembly, coming as they do from men imbued with the so-called reformed ideas. Nobody can say what is really beneficial to the society. Many minds think differently on the subject. There is a saying in my part of the country:

"Paraghara pitha dekhi rahaie khabaie ghasi phadakaie gooda madai chobaie".

"If you feel jealousy when your neighbour makes cakes and you are anxious to eat cakes, do not take a piece of cow-dung and gnaw it with *goor* or sugar."

That is to say, one should not aspire to be what another is. For instance, the Christian society has a particular way of living, while the Hindu widows remain inside the house and observe the purdah system. But if I were to live like an English gentleman and walked with my wife outside in the streets, what would be my position? The Europeans have been observing that kind of life from time immemorial and if we were to ape or imitate them, it would not be right for me, and I would be isolated. So I maintain that there is no need for any law on the subject because the condition of the existing Hindu society does not need it. May I ask the Diwan Bahadur Harbilas Sarda, who sponsored the early child marriage Bill, whether it is not a fact that his own brother

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did not invite him to the marriage of his daughter? His name may be known to the whole world as that of a great reformer, but let him go to any village and find out how his law is being appreciated. I can only say that at the expense of the Hindu society he is trying to get very cheap notoriety without spending a pie. Sir, if a man builds a temple or a mosque, he becomes famous; if a man does something wrong in the street, he also becomes notorious, his name is tomtomed. Similarly, if a man makes water in the street, he also gains notoriety. Therefore, I maintain, that the Hindu society should not ape others at all. I appeal to my Hindu friends and to all other Members of this House not to help the Diwan Bahadur in bringing disruption of the Hindu society but to allow the Hindu society to grow and develop as it has been doing for the last so many thousand years. Sir, with these words I oppose the Bill.

Mr. D. K. Lahiri Chaudhury: Sir, at the very outset, I would like to thank my Honourable friend, Diwan Bahadur Harbilas Sarda, for being so jubilant on the rescue of the widows. I admit that it is a fact that in many cases our widows are looked down upon, still I do think that this is not the proper time for bringing forward such measures when the country is passing through such a momentous period in its history. I would, for my part, like to impress upon the House that I do not stand in the way of anyone being given his or her share of liberty. The other day I was fighting for the same cause with the Government, namely, that everyone should enjoy the rights of citizenship. So, it is not from that point of view that I am arguing. My only point is, what would be the result if the Bill is passed as it stands. It gives an absolute right to the widow.

Under the present Hindu law, I am guided in Bengal by the Dayabhaga law, which really gives a share for the widow. If there is a widow with two sons, she is certainly entitled to get her maintenance. And if there is a partition of the property, then she is entitled to have an equal share along with her sons. For instance, if there are two sons, then the property will be divided into three equal parts—two parts will go to the sons and one to the widow. I am opposed to this Bill from another point of view. Suppose a man has two wives and the husband dies leaving a child by his first wife and the second without any issue, and if she inherits the whole property with an absolute right and if it happens that she does not pull well with her son, she may by deed of will dispose up her property to anybody whom she likes. Then her son who is really offering the *pinda* for his father will be deprived of the whole property because of the absolute right of the widow. Therefore, it seems to me that the Bill is not only misleading but extremely dangerous according to the Dayabhaga law. I do not propose to deal with the Mitakshara law. But so far as the widow's share in the property is concerned, my Honourable friend, who had been a Judge of the court, must be aware of the fact that according to the Dayabhaga law a widow is entitled to have some share of her husband's property. I am sure the Honourable the Law Member will enlighten the House on the subject; but there is no doubt of the fact that under the Dayabhaga law the widow has at least the right for her own maintenance.

I am glad Mr. Jadhav is here, because I was shocked to hear from him that our widows are looked down upon by our society and they are sometimes made the cooks of the family. I strongly protest against

this remark. Rather our widows are very highly respected in our Hindu society. Her pure, simple, chaste life stands as an ideal to our eyes. Nowhere in the world can widows have better respect and regard than in India. Sir, formerly it was a qualification for a woman in the Hindu society if she could cook well. May I just remind the House of the name of Draupadi who was supposed to be the best cook of her time and her only reputation was that she was a good cook. I fail to understand therefore that how the art of cooking can be minimised as merely a task of a cook in the family.

Sir, I repeat as I said at the very outset of my speech that this Bill ought not to be brought here on the floor of the House at this juncture. I am not against anybody, but I do most emphatically maintain that we should all concentrate our attention at the present time, as was remarked by my friend Mr. Ranga Iyer, on the political freedom of the country. The Round Table Conference sat and its Committees have already started their work and it is not right and proper that we should at this juncture interfere with our social life.

The Honourable Sir Brojendra Mitter (Law Member): Sir, I had no desire to take part in this debate had it not been for the fact that up to now certain aspects of this Bill have not been prominently brought before the House. The motion before the House is that this Bill be referred to a Select Committee. That means that this House is to be committed to the principles of the Bill and the details are to be settled in the Select Committee, and if there are any drafting defects, they should be remedied there. That is the implication of a motion for reference to the Select Committee. My initial difficulty is that I do not know what is the principle of the Bill. When I went through the Bill,—and I can assure my Honourable friend the Diwan Bahadur, I went through this Bill very carefully—I asked myself, does it apply to the Dayabhaga school of Hindu law or does it not. In my talks with the Diwan Bahadur I understood his intention was that Dayabhaga was to be included within the scope of the Bill and I shall proceed upon that assumption. If the Dayabhaga school is to be included, then under clause 3 the son, the grandson and the great grandson, who are the heirs of the deceased, would be excluded by the widow. The words are:

"Where the husband of a widow was at the time of his death a member of a joint family, the widow shall be entitled to such share of the joint family property as her husband would have got. . . . ."

The clause does not say whether the Bill is dealing with a sonless widow or a widow with sons. I shall examine this clause on either hypothesis and see what the result is. The wording as it stands means, she may be a widow with sons or she may be a sonless widow. If she is a sonless widow, the clause is not necessary for the Dayabhaga law, because a sonless widow does inherit the property of her husband for the simple reason that in the Dayabhaga school, joint family is a tenancy in common and not a joint tenancy with survivorship. Every Member of a joint family has got a definite share and if a man dies without son, grandson or great grandson, his widow under the existing law inherits his share for the period of her life in what is known as the widow's estate. Therefore the clause is not necessary in the case of a sonless widow. But if it means a widow with sons, grandsons or great grandsons, under this clause, the sons, grandsons and the great grandsons would be excluded by the widow completely. The widow gets everything. That is the principle of this Bill.

Diwan Bahadur Harbilas Sarda: No.

The Honourable Sir Brojendra Mitter: Is this House to be committed to that principle? If it is committed to that principle, no amount of drafting ingenuity can shape it into a rational Bill.

Diwan Bahadur Harbilas Sarda: If the Honourable the Law Member had been present when I moved this Bill and stated what the object of the Bill was and what the principle of the Bill is, he would not have raised this objection. I distinctly stated that no son, no grandson or no great grandson or anybody, to whom the Mitakshara or Dayabhaga gives any right, shall be disinherited. It is only to give an equal share with the son to the widow that this Bill is brought forward. If it is not properly drafted, that is a different matter. I have been asking my Honourable friend for the past 18 months to help me in drafting. I am not a legal draftsman. If there is any defect, let it be corrected. I have no intention whatever of disinheriting anybody in the world who is entitled to inheritance under any law.

The Honourable Sir Brojendra Mitter: I was dealing with that point. Is it a drafting matter or is it a matter of principle? That was my point. If it be a drafting matter, I can well understand the Select Committee putting things right and remedying defects. But the Bill as it has been presented to this House embodies a certain principle and as I read the Bill it excludes the son. This is not a drafting matter. It excludes the son altogether. It excludes the grandson and the great grandson. To what principle is this House invited to be committed? That the son, grandson and great grandson should be excluded? The Diwan Bahadur now says it is not his intention. He has been very unfortunate in not expressing his intention adequately for ordinary people to understand. That is why I started by saying that my initial difficulty was that I did not know what the principle of the Bill was. Now I shall refer to another portion of that clause. At the end of sub-clause (1) it is said "as her husband would have been entitled to, under the Mitakshara law had a partition taken place in his life time, and may sue for partition" I ask myself, does it mean actual partition or notional partition. I take it it means notional partition because the clause says "and may sue for partition" which connotes that no partition had taken place but a partition which might have taken place. Now, Sir, compare that with clause 5. and that is where my puzzle comes in. Clause 5 says:

"A widow's claim to maintenance from the funds of a joint family shall cease on the partition and separation of her share as provided in this Act."

Just consider the two clauses together. The husband dies and the widow gets her husband's share but there is no partition, as clause 3 says. Till partition what happens to her maintenance? Clause 5 says the widow's claim to maintenance from the funds of a joint family shall cease on partition and separation, that is, actual partition. This is the principle of the Bill. Till actual partition takes place the widow gets a share and she gets her maintenance also. Is that the intention of this Bill? Is that the principle on which this Bill has been drafted? I am only placing my difficulties before the House because the House is invited to accept the principle of the Bill. And what is the principle? That till actual partition takes place the widow should get a share as well as maintenance or shall get a share only?

Diwan Bahadur Harbilas Sarda: No.

The Honourable Sir Brojendra Mitter: Then what is the principle? As I have shown, clause 3 certainly contemplates that no partition has taken place but she should get the share which the husband would have got had a partition taken place. There is no actual partition; clause 5 says that the widow goes on getting her maintenance till actual partition takes place. What happens in the meantime? What is the principle of the Bill and what is the Select Committee to do? This is not a drafting matter.

Mr. S. G. Jog (Berar Representative): As the other co-parceners are there she lives along with them.

Diwan Bahadur Harbilas Sarda: I wish to make a personal explanation.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member has his right of reply. He cannot disturb the speaker by such frequent interruptions.

The Honourable Sir Brojendra Mitter: That was the second difficulty I felt. I did not understand the principle underlying the Bill, the principle to which this House is invited to commit itself. I have mentioned these difficulties for which notwithstanding the interruptions of my Honourable friend I have not been able to find a solution. Then take clause 3. Clause 3 says that the widow gets a share which her husband would have got on a partition. What is her position in the family? Is it her position in the family that she continues to be a co-parcener till a partition actually takes place, because, under clause 5 she goes on getting her maintenance till then. Sir, it is one of the fundamental principles of Hindu law that a woman can never be a co-parcener in a joint family.

Sir Hari Singh Gour: That is perfectly right. Nobody questions that.

The Honourable Sir Brojendra Mitter: The Honourable Member may not. But for the satisfaction of the lay Members of this House I may just give this reference. I am quoting from Mulla's book. "No female can be a co-parcener under the Mitakshara law." If that be so, what is the principle underlying the Bill? Is she to become a co-parcener till partition actually takes place or what is she? I tried to solve the question myself and thought it might be that she would be a tenant in common. That would be her position in law. Well, I examined the Bill from that point of view. When I examined this Bill I examined it with the fullest sympathy, not with the intention of picking holes, but in order to understand the underlying principle to which the House is invited to be committed. Now, assuming that she is to be treated as a tenant in common, just consider the implication of that position. The implication is this that a Mitakshara joint family, which is a joint tenancy, is not by a voluntary act of any member of the family but by the accident of death of a member of the family automatically converted into a tenancy in common. The joint tenancy which, ordinarily, can be converted into a tenancy in common only by the voluntary act of a member of the family is here automatically converted by the death of a member into a tenancy in common. If it be said that the Hindu society has moved far enough to get rid of joint tenancies and let all joint tenancies be converted into tenancy in common, I pause and think that is a very big proposition, and all this is implied in this little Bill. Then, consider for one moment what is the position of the surviving male members of

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the family. Do they take by survivorship *inter se* as between themselves, or do they not? Are their rights to be affected? I am not quarrelling with the widow getting the share which her husband would have got. Let her take that share but why, in the process, do you cause a loss to the other members of the family by depriving them of the right of survivorship which they otherwise would have got? I am not thinking of the share which the widow has taken away or which the widow may be entitled to.

Diwan Bahadur Harbilas Sarda: The survivors are not deprived of any right under my Bill.

The Honourable Sir Brojendra Mitter: That is my difficulty. That is why I am examining the effect of the widow getting a definite share on the death of her husband. Directly you get a definite share in a Mitakshara joint family, then at that very moment the jointness is put an end to. The whole family breaks up. If they continue to remain together, it is a tenancy in common and not a joint tenancy. If they be tenants in common, then, there is no survivorship because, there is no such thing as survivorship in tenancy in common. Therefore I want to know what is the underlying principle. I read it in that way. The author of the Bill says that is not his intention. What is the Select Committee to do? Is this a drafting matter? When by applying the ordinary rules of law I come to one conclusion and the author of the Bill says that is not the effect which he wants to come out of this Bill, how is the Select Committee to know what the underlying principle is? My contention is this. It is not a measure fit to go before any Select Committee until these points are cleared up, and these points have not been cleared up by the language of this Bill or by the speech which the author made in moving his motion.

Before you send this matter to Select Committee the House will have to make up its mind whether it favours the policy of getting rid of joint tenancy upon death, because death must happen in every family. That is a thing which no family can avoid. If that be so, if the joint tenancy in every family automatically disappears and tenancy in common takes its place, then this House is invited on this little Bill practically to adopt a policy of doing away with joint tenancy altogether from Hindu law. Sir, I ask the House not to take such a big step without full consideration. It is a very risky business and that is why that sage, erudite lawyer Sir Sivaswami Iyer condemned the Bill. He has closely examined every clause of the Bill, gave constructive suggestions as to what ought to be done to secure the legitimate rights of widows and after a very careful and close consideration of all the clauses he comes to this conclusion:

"The Bill as introduced is an extremely crude, ill-considered and ill-drafted measure. The author would be well advised to withdraw it and entirely recast the Bill in the light of the considerations I have referred to."

Sir, I endorse every word of that opinion. From this Bill you cannot get any definite principle which is fit to go before a Select Committee. Directly you gather one principle from one clause, you are confronted by another clause which demolishes that first principle. As I have pointed out just now, in the case of maintenance, clauses 3 and 5 are contradictory. That being so, there is no principle on the basis of which the Select Committee can improve the drafting? This is not a drafting matter at all It is a matter of policy, it is a matter of principle.

Now, Sir, take another. Under clause 3,—I shall put the most charitable construction on it,—under clause 3 it is intended that it is only sonless widow who would get her husband's share. Now, as I said, in the case of a Dayabhaga sonless widow such a clause is not necessary,—she does take it under the ordinary law. Now if you say, as the Diwan Bahadur, when he interrupted me, said that his intention was that even if there are sons the widow should get a share equal to that of a son or some share, what about the testamentary right of the deceased? Under the Dayabhaga school, every man has the right of disposing of his property by will. If you make an absolute provision that on his death his property goes to his widow, what about his right of disposing it by will? Is it the intention of the author of this Bill that that right should be preserved or that right should be taken away? What are you asking the Select Committee to do? How is this a drafting matter and how can any draftsman, however clever, reconcile the two positions of the existence of a testamentary right which the ordinary law gives to a Dayabhaga proprietor and statutory devolution of property under this Bill? Is the House now invited by the author of this Bill to agree to the policy that the testamentary right of a Dayabhaga Hindu is to be taken away. I should like the Diwan Bahadur to explain that. What is his intention? It could not be his intention that such a valuable right should be taken away, but that is the effect of clause 3. Then what is the Select Committee to do? Sir, that is another difficulty which I felt and over which the debate has thrown no light.

Mr. T. N. Ramakrishna Reddi (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): The testamentary right is not taken away under the clause. She takes from her husband whatever property he left behind at the time of his death.

Diwan Bahadur Harbilas Sarda: I will explain it later.

The Honourable Sir Brojendra Mitter: I anticipated this sort of explanation, but see the futility of it. A will speaks from the death of a testator. A will is never operative during the lifetime of the testator. He is entitled to dispose of the whole of his property by will. Here you say, no; when he dies his property will not go according to the provisions of his will but will go according to the provisions of section 3. Then, are you not taking away the testamentary right?

Diwan Bahadur Harbilas Sarda: May I explain, Sir?

Mr. President: The Honourable Member will have an opportunity of fully explaining his point of view later.

The Honourable Sir Brojendra Mitter: I like the interruption.

Diwan Bahadur Harbilas Sarda: I will explain the whole thing in a few minutes how it does not affect that right.

The Honourable Sir Brojendra Mitter: I am afraid that it is my fault that I did not probably express myself clearly. What I mean is this. What clause 3 says is this; the widow gets what the husband would have got as on a partition at the moment he died. That is what it says. He makes a disposition of his property by will; but that will cannot operate till after his death. Under this clause all that the husband had or might have had goes to the widow. If that be so, what about the husband's right to deal with his property by will?

Diwan Bahadur Harbilas Sarda: A very simple thing; I can explain it.

Mr. President: You can do so when you get your right of reply.

The Honourable Sir Brojendra Mitter: What I say is that this devolution of property under clause 3 is a devolution by force of law. Devolution by the voluntary act of a man in disposing of his property by will is not by force of law, but of his own volition. Devolution by force of law and devolution by volition of the owner of the property—these two come into conflict directly a man dies. Under this Bill the property goes by force of law to the widow. But under the ordinary rights which an owner has he disposes of this property by will. Which is to prevail?

Mr. S. C. Mitra: The latter one.

The Honourable Sir Brojendra Mitter: Why do you say that? That is my trouble.

Mr. S. C. Mitra: Put it in the Select Committee.

The Honourable Sir Brojendra Mitter: That is precisely my point; it is not a matter for the Select Committee; no draftsman can do it; you have got to make up your mind here what is the policy which you are going to adopt and what is the policy which is to be carried out. The Bill, as I read it, overrides the testamentary right because the Bill says so in so many words . . . . .

Diwan Bahadur Harbilas Sarda: It does not if you understand it properly.

The Honourable Sir Brojendra Mitter: That is my difficulty. I have not been able to understand what this Bill is; and that is why I am placing my difficulties before the House . . . . .

Mr. President: As the Honourable Member has made a very important point, I will, as a special case, allow Mr. Sarda to meet it now.

Diwan Bahadur Harbilas Sarda: I will deal with only that point; my Bill says that a woman shall be entitled, if she sues for partition, to such share in the property as her husband would have been entitled to if partition had taken place just before his death. If a man had made a testamentary will he could only have made it before his death; and if he had done so and willed away his property, then at the time of his death he would not be entitled to any property in the family of his own right and therefore the woman would get nothing; so this Bill in any case does not override any testamentary power of the husband. If he makes no testament or will during his life-time then he dies with a share to which he would have been entitled if partition had taken place just before his death and the woman will then get that share, so that so far as the testamentary right of a man is concerned, this Bill in no way contravenes that right; because the will can have been made only before he died, not after he died; and therefore she will be entitled only to the property which she could have got if the husband had divided it just before his death, if he had made a will and divested himself of his property, though the will would take

effect on his death. That is the only right. If there is any question of any legal wording, that is another matter; but the thing is plain and the principle of the Bill is simply this, as I have repeatedly said, to give the widow some share in the property of her husband. I shall not labour that point further now.

The Honourable Sir Brojendra Mitter: I am very much obliged. It is rather painful to have to talk elementary law when you are dealing with a Bill the implications of which are so complicated that a close study only increases one's puzzle. The elementary law is this; that a will is not operative during the lifetime of the testator. Therefore what happens is this. If he had made a will his executor is entitled to his properties but the will is not opened till the man's death; it is sealed up; at this moment the wife comes forward and says "Under clause 3 of this Bill the husband if he had been a separated member would have been entitled to one-third of these joint properties, being one of three brothers, and I am entitled to that share now".

Mr. T. N. Ramakrishna Reddi: A member of a joint family cannot make a valid will under the Mitakshara law.

The Honourable Sir Brojendra Mitter: The whole time I have been talking of Dayabhaga law. Probably the Honourable Member is not quite familiar with Dayabhaga law. A Dayabhaga member of a joint family of three brothers has got the right to deal with his one-third share. So at the moment of his death, if this Bill does apply to the Dayabhaga School, as I understood from the previous speakers that it did, then this brother would have been entitled to one-third share of the property as if partition had already taken place. The widow can claim that because this Act says she will be entitled to it. The executor comes forward and in the presence of respectable people he breaks the will open and says under this will the one-third share has been disposed of differently. Which is to prevail? If you say this law ought to prevail—and it must prevail because it is an absolute provision in the law, then that will is waste paper; and therefore you are taking away the testamentary right of a Dayabhaga member of a joint family; that is my point. Diwan Bahadur Harbilas Sarda seems to think that the will operates from the date that it is made; that is not so; it operates only when the man dies . . .

Diwan Bahadur Harbilas Sarda: I know that.

The Honourable Sir Brojendra Mitter: Then what is the point in saying that a man makes his will before his death; unless the date of making the will is relevant; what is the point of mentioning it at all. Under this Bill this positive provision of law will override the testamentary capacity; but the author of the Bill says that is not his intention. What is the Select Committee to do? What is Mr. Mitchell the draftsman to do? He cannot give effect to an unexpressed intention; he can only give effect to the expressed intention of the clause. He can remedy drafting defects. What is the intention which is to be given effect to—that the testamentary right should override this provision or this provision should override the testamentary right? That is another puzzle. Therefore, my submission is this, that this Bill is not fit to go before a Select Committee; nothing is definite about it. It says one thing, while the intentions of the author are different. The explanation which the author has given in this House is absolutely contrary to

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what is expressed here. That being so, what is the Select Committee to do? To what principle or to what policy is the House invited to commit itself? Is it to the principle which is to be found here if any definite principle can at all be gathered from this document, or is it to the principle which was enunciated in introducing this motion? What is the principle which the House is invited to accept? That is my difficulty.

Let us examine another point. Sub-clause (1) of clause 3 deals with a man who was a member of a joint family. Sub-clause (2) deals with a man who was a separated member.

Now, look at the proviso which says, "should a widow adopt a son to her deceased husband, the personal law of adoption applicable to the widow shall take effect but to the extent of a moiety only of the family property". I have been trying to discover the meaning. I take this case; a widow does adopt after, say, two years. During these two years the widow, according to the Bill, is the absolute owner; I understand however, that the Diwan Bahadur in introducing his Bill said that he would be quite willing that the widow instead of taking an absolute interest should take a limited interest. I am not quarrelling with him at all on that point; I am not holding him to his language, I shall accept what he says. Very well, the widow does inherit under this law to her husband's property in the estate. She adopts a son two years later; then half the property goes to the adopted son, it must go absolutely because there is no such thing as limited interest in the case of a male heir. The son gets an absolute interest in a moiety and the widow gets a life interest in the other moiety. What is the meaning then of this expression "family property"? Where is the family property of the separated member? There was himself and his wife; he dies without a son and the widow adopts. What is the family property to which this division will attach? That is another puzzle to me.

Diwan Bahadur Harbilas Sarda: That is hair-splitting.

The Honourable Sir Brojendra Mitter: The point is this. Under this clause he is a separated member; there is no joint family; then where is the division? Where is the joint family property? Whose family? I see my friend Sir Hari Singh Gour shakes his head . . . . .

Sir Hari Singh Gour: As my friend has referred to me and said that I was shaking my head, I must say that my friend is passing through a microscopic examination the various provisions of the Bill. This is not the time nor the occasion for it. The earlier part of his speech is perfectly sound, and I endorse every word of it, but what he is now trying to do is to go through the minutiæ of the Bill, a thing with which we are not concerned now.

Diwan Bahadur Harbilas Sarda: Is there any Bill framed by the Legislative Department that can stand a microscopic examination? Every day lawyers in court tear it to pieces.

The Honourable Sir Brojendra Mitter: It is true that I am looking at the Bill through a microscope in order to discover a principle, but so far, I have failed to discover any. I have seen many conflicting principles in this Bill one destroying the other. As I say, clause 3 destroys clause 5, and clause 5 in its turn destroys clause 3. Then what is the principle which this

House is invited to accept? What is the principle which the Select Committee is to give effect to by drafting ingenuity? My microscopic examination is only to discover if there is any principle at all underlying this Bill. What I have discovered, in so far as any principle could be discovered, is destructive of Hindu law as we know it. As I say, it is destructive of joint tenancy, it is destructive of the rights of sons, grandsons and great grandsons, the widow excluding, the natural heirs of the man. These are the principles which I have discovered. And in so far as there are any principles at all, they are much too dangerous to be adopted by this House on a measure which is intended to give relief to a widow. On a measure like that it is much too risky to go to the length of destroying joint tenancy automatically and substitute tenancy in common in its place. On a measure like this where you want to give the widow some relief, to take away the rights of the son, grandson and the great grandson is a great step; on a Bill like this to take away the testamentary right of a proprietor is a very big step. So I say in so far as there is any principle discoverable here, these principles are much too dangerous. There are different principles mutually destructive, and my point is that in such a case this House should not send this Bill to the Select Committee. I would again remind this House of the observations of Sir Sivaswamy Aiyer. I will also draw the attention of the House to the opinion of that brilliant lawyer who occupies the high position of Advocate General in Madras at present—Sir Alladi Krishnaswami Aiyer. This is what he says at page 35:

> "The Lawyer looking on the Hindu Law as a system from the scientific point of view may well feel apprehensive that the Bill may produce anomalous results and have the effect of converting the Hindu Law into a mongrel system without any basic principles to guide us. Piecemeal legislation on any particular topic in the field of Hindu Law which appeals to a particular legislator is sure to bring about inextricable confusion."

In my search for the discovery of principles in this Bill,—unfortunately I have come to the same conclusion, that it will destroy principles without substituting a rational principle for what you are destroying. In the attempt,—and I say in the most praiseworthy attempt,—to secure to the widow some right in the family property, what you are doing is this; you are not giving her a right in the family property; you are destroying the whole structure. Give her a place, an honoured place, within the structure. I can well understand it; I can well sympathise with that object, but what you are purporting to do here, whatever your real intention may be,—and I daresay that is your real intention, to secure a place to the widow in the existing structure,—what you are purporting to do here can never be achieved by this Bill. A separate Bill will have to be brought in for that purpose. My point is this; do not pull down the structure in which you are going to give the widow a secure place; keep the structure intact; make internal re-adjustments in the structure, but do not destroy the structure. The effect of this Bill is to pull down the whole of that structure, the effect of this Bill is to do away with the right of survivorship, to do away with joint tenancy, the effect of this Bill is to do away with the testamentary right of persons . . . . .

Sir Hari Singh Gour: Assuming that the Bill will have all that effect which you have enunciated, you can prepare a Bill conveying the principle that you are enunciating . . . . .

The Honourable Sir Brojendra Mitter: I do not want to repeat myself. I again commend Sir Sivaswamy Aiyer's advice to this House; withdraw this Bill and bring in a proper measure in the light of the opinions which have been received. In the opinions which have been collected on this Bill there are valuable suggestions, and in the light of those suggestions if any of my Honourable friends prepares a more rational measure, a more consistent measure, then the Government will give their most careful consideration to that measure. But with regard to this Bill, there can be only one attitude which the Government can take,—an attitude of opposition.

An Honourable Member: Withdraw.

Diwan Bahadur Harbilas Sarda: Certainly not.

Several Honourable Members: Let the question be now put.

Mr. President: As no one has risen in his place to speak, I will call upon Diwan Bahadur Harbilas Sarda to reply.

(At this stage some Honourable Members tried to prevail on Diwan Bahadur Harbilas Sarda to withdraw the motion.)

Diwan Bahadur Harbilas Sarda: I am here to do my duty, and everybody has to do his duty. I will not be guided by anybody else except my own conscience.

Mr. President: Order, order. I have called upon the Honourable Member to reply.

Diwan Bahadur Harbilas Sarda: Very well, Sir.

Mr. President: How long are you likely to take?

Diwan Bahadur Harbilas Sarda: About 1½ hours.

Mr. President: The House will now adjourn till 2-25 P.M.

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 in the Chair.

Diwan Bahadur Harbilas Sarda: I find, Sir, that 15 Members have spoken on this Bill. Of these 5 have spoken against it. One has spoken against the Bill because, though he sympathises with the object of the Bill, he says it is badly drafted and therefore he is against it. Thus six Members including him are against the Bill and nine are in favour. The principal opponent of the Bill, who made a long speech, was Raja Bahadur Krishnamachariar, and I shall deal with a few points which he made in that speech. My friend referring to me said, I use his words:

"He said it is only a question of principle that is involved; the rest and the more important thing would be done by the Select Committee, that question of principle being or at least asserting that the Hindu widow is subject to all sorts of persecutions and tyrannies which human wit could devise."

These are his words. I do not know, Sir, if any man could more misrepresent what I said. My speech was delivered in the open House. I wonder if any one who heard me could say that the principle of the Bill was that the widow was subjected to all sorts of persecutions and tyrannies that human wit could devise. He then asks, "Has any widow complained to Mr. Sarda?". Yes. Several. And then we find every day in several provinces widows complaining of their hard conditions and asking for relief. I will read only two of the letters I have received. One of them is in Hindi and I do not intend to read it to the Assembly. I can only say that it is sent to me by the widow of an officer in Kotah who was Assistant Inspector General of Police there and she relates her harrowing tale of misery, how she has been driven out of the family without any provision being made for maintenance by her relations. The second letter which I received yesterday is this:

"Your active sympathy for the deplorable state of Hindu widows and your efforts to get them redress have inspired me to narrate you the pitiable condition of my daughter whose husband died some 5 months back. I belong to a Deccani Brahmin community. My daughter was married at the age of 16 to a young man of the same caste. He was an employé of the Imperial Bank of India at Dhulia drawing Rs. 150 per month. All of a sudden he was thrown off the service. This was a great shock to him. The result was he caught consumption and died of it after a protracted illness of one and a half year. My daughter could hardly enjoy the married life for 3 or 4 months. This is my only daughter. I spent for her marriage Rs. 4,000, Rs. 2,000 dowry and Rs. 2,000 for other expenses.

As she has now become a widow, her father-in-law who is a moneyed man would not allow her to stay with him though they were living jointly during the life time of her husband. In order to get maintenance allowance from her father-in-law I asked a local pleader to issue a notice on her father-in-law claiming maintenance at Rs. 25 per month, *Stridhan* for about Rs. 5,000, and Rs. 2,000 on account of the life policy of her husband. The pleader informed me that whatever property that belonged to her father-in-law was self-acquired and hence the father-in-law was not legally bound to maintain his daughter-in-law. It is only moral obligation. My daughter cannot therefore claim maintenance as of right under the existing Hindu law. If the opposition party could see with their eyes wide open they will see this sort of injustice towards widows in almost every Hindu family. Hindu widows at once become foreigners to the house which belonged to them during the life time of their husbands. By bringing forth a Bill in the Legislative Assembly for a share for Hindu widows in the husband's property you have certainly espoused the just cause of Hindu widows. May you be successful in your attempt."

If my Honourable friend thinks that the condition of the Hindu widows is that of very happy women, he must be living in a dreamland of his own. Then he said "of course any one could get some of these letters written but whether the writers understood the contents of those letters or not is a different matter". I had hoped that a man of Raja Bahadur's credentials would not stoop to make such unfair insinuations. I will not say much further than that on that point.

Speaking of Government's attitude towards social legislation, my Honourable friend, speaking of his leader Sir Hari Singh Gour's Bill on the divorce question, said:

"At that time the Home Member put his foot down very heavily and said that before Government decided to support that Bill, they ought to have before them strong cogent evidence that the community or a portion of the people affected would agree or welcome it."

I am willing to accept this attitude of Government towards social legislation. The Honourable the Home Member knows very well that the women of India demand this law. If Government want evidence "that the community or a portion of the people affected would agree or welcome it" what

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better evidence could there be than the fact that of the 15 Members who spoke five opposed it and ten supported the Bill. Of these, two were Muslims and the rest were Hindus. So far as the Assembly goes, the Bill has been opposed by only 5 and supported by 10. An Honourable Member who spoke towards the end of the debate, Mr. Sen, seemed to deny the very basis upon which the Bill is based. He and Raja Bahadur Krishnamachariar did not admit or accept that the condition of the Hindu widow is at all miserable. They think that the widows are treated with every respect and consideration and nothing has to be done to ameliorate their condition. On this point the Raja Bahadur dismissed the Honourable Mr. Yamin Khan as being a non-Hindu and therefore absolutely ignorant of Hindu conditions. But as to the condition of Hindu widows, is not Justice Jwala Pershad a Hindu, when he says that the unfortunate widows of Hindus are left to the mercy of their husbands' relations? Are members of the Shivaji Maratha Society, Poona, who say that the plight of Hindu widows is extremely distressing and terrible, Hindus or not, and do they not know what the condition of Hindu society is? Is Rao Bahadur Kelkar—a most respectable man in the Central Provinces who says that the lot of the Hindu widow in joint Hindu family being left to the tender mercies of her unsympathetic relatives who consider that there is no justification for her deplorable condition after her husband's death, not a Hindu? Is Saligram Singh, the President of the Hindu Sabha, Ballia, not a Hindu, because he says that the condition of the Hindu widow has become proverbial in helplessness, that the treatment accorded to her is simply deplorable and repugnant to all sense of humanity and decency? Is not Mr. Justice Niamatullah, who has passed several years of his life on the Bench and became acquainted with the condition of all grades of society in the country, in a position to speak with authority on the question? He is supposed to know something about those people whom I have referred to. Are not the other gentlemen I have named not Hindus, including the President of the Hindu Mahasabha? And do not also other people who have had opportunities of studying the conditions of such people, although they are not Hindus, consider that the position of Hindu widows is bad? Sir, here in this Assembly Government allow all Members containing Hindus as well as others the right of voting and the right to make laws for the whole country concerning all people, and surely everybody's experience is valuable and everyone has a right to say what the condition of a particular section of society is, if he happens to have experience of that society.

Raja Bahadur G. Krishnamachariar: May I rise to a personal explanation?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Not now, unless the Honourable Member yields. After the Honourable Member has concluded his speech the question of personal explanation will be considered. There shall be no personal explanation at this stage.

Diwan Bahadur Harbilas Sarda: Sir, the Honourable Member then read out the opinion of Diwan Bahadur Sundaram Chetty, and he quotes him as saying:

"This Bill, which is designed with the object of ameliorating the position of Hindu widows in respect of their rights of inheritance over their husbands' estate, tends to effect drastic changes in the Mitakshara law now prevailing in India. Two of the basic principles of this school of law as understood and settled by a long course of judicial decisions are the right of survivorship in the joint Hindu family and the qualified or limited ownership of a female heir in the property inherited by her. The present Bill cuts at the very root of these principles in order to better the status of Hindu widows."

Then he omitted important passages and quoted some further passages to suit his case; but you will find, Sir, that in what he has quoted from the opinion of Diwan Bahadur Sundaram Chettiyar he has employed all the tactics of an interested advocate and has quoted a few lines here and a few lines there out of their context and made a mosaic—as the Honourable the Home Member told us yesterday. (Laughter.) Now he omits these words:

"Judged from the standpoint of the Hindu widow alone, regardless of all other considerations which prevail in laying down the principles of the Mitakshara law, the Bill may seem to be a laudable measure. I am not unmindful of the deplorable condition of the widow of a co-partner drifting from a state of affluence, respect and command on the death of her husband to a state of dependence on his surviving co-parceners for maintenance."

And then he goes on:

"Instead of being a maintenance-holder, the widow can have the benefit of enjoying her husband's share till her death, with limited powers of disposition, I would suggest that larger powers of disposition may be granted to the widow while she enjoys her husband's estate and a more liberal view of her disposing power may be taken. Her powers may be declared to be on a par with those of the manager of a joint Hindu family. This would be reasonable and serve the interests of the widow without affecting the reversionary rights."

Now, Sir, I have embodied all that in my own Bill; I have given her only a limited ownership and not absolute ownership cutting out the survivors or reversioners. I will now quote from another lawyer of the Madras Presidency, Mr. Venkatanarayana Nayudu Garu, C.I.E., Secretary to the Madras Government, Law Department, and he says:

"It would be sufficient if the widow is allowed an equal share along with the sons, of the property left by her husband and the whole of it in the absence of sons. I am to add that, as suggested by the Women's Indian Association, Tinnevelly, provision may be made in the Bill to the effect that, if the widow remarries, the property will revert to her previous husband's heirs."

Now this is exactly what the provisions of my Bill amount to. The Raja Bahadur relies on the opinion of Sir Sivaswami Aiyar and he revels in quoting it. Now the fact is that Sir Sivaswami Aiyar as has been stated also by my Honourable friend, the Leader of my Party, is against the framework of the Bill. He says:

"It is, however, a settled law even in these Provinces that she cannot enforce partition but is entitled to a share only when partition takes place at the instance of sons or other male members or when the interest of a member is severed by a sale in execution. Though some of the text books speak of the co-ownership of the wife or mother, it is only in a loose sense inasmuch as the widow or mother has no right to enforce a partition of her own motion and cannot object to alienation by her deceased husband for consideration or even to a testamentary disposition by him."

This is what the law at present is. I may say that this law is the law made by English judges who did not know the language of the original texts and who did not know that the texts of the Hindu law went much beyond what was allowed at the time in England by English law. The fact is that the Shastras do not speak in a loose manner of rights of co-ownership, but it is the English judges who have interpreted the law that have seriously curtailed the Hindu women's right to property. Sir Sivaswami Aiyar simply accepts what the English judges tell him the Hindu law is. But we are not going to do that. There are foreign

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scholars who interpret the holy Vedas—I could quote passages—which all Hindus believe to be inspired, as songs of shepherds and goatherds. Will my Honourable friend accept this view of their sacred religious book which has been given by the European scholars? If not, why should we or he accept the interpretation of our laws given by those who were ignorant of the language of those Shastras?

Then, most of the criticism which was levelled by Sir Sivaswami Aiyar against the Bill applied to the old Bill which gave an absolute right to the widow in the property she got from the joint Hindu family and not to the present Bill which gives her only a widow's estate. The fact is that people like my Honourable friend, whose minds are cast in a mediæval mould, neither care for the law as laid down in the older books nor appreciate the changes the world is rapidly undergoing now. Their mental attitude reminds me of a story given in "Shakuntala" by Kalidas. It was becoming dark and a Brahman came and put a garland of flowers round the neck of a king. As it was dark, the king felt the coldness of the petals round his neck and thought it was a snake and cried out: "A snake is round my neck; save me, save me". He would not touch the garland to see whether it was a snake or not as it was dark and he was afraid of being bitten by it. This is the mentality of people who would not look into the texts themselves, who would not see what the Hindu law actually is as laid down in the Shastras, but who would simply cry out in the darkness of their ignorance: "Save our religion because it is in danger". The Honourable Member then says that I am a member of the Arya Samaj and therefore have no right to speak on Hinduism. A more preposterous remark was never made by a sensible man. In the first place, as I said the other day, my name does not appear on any register of the Arya Samaj. I am certainly connected with the society which was created as a trust by Swami Dayanand Saraswati, the founder of the Samaj, to administer the behests of his last testament. Because a man has got reformed ideas, believes in Vedas but does not believe in certain interpretations of them, because a man believes in Jain religion and its philosophy or he is a Siva and believes in Sivaism, or because he believes in Vishnuism, does he cease to be a Hindu or does he cease to be governed by the Hindu law? Can it be said that these people should not be governed by the Hindu law but by a separate law of their own? Every man who is subject to the Hindu law has a right to protest against any injustice that is done by that law. I want to leave the Honourable Raja Bahadur now. Before, however, I do so, I wish to say a word about the way in which he wanted to make capital out of some opinion which I was reported to have given on some Bill of Bakhshi Sohan Lal which was referred to me by Government for opinion years ago. He has not produced the Bill to show what it was. He has only quoted two passages from my speech and repeated one of those passages four times within 10 minutes as if he had nothing else to say. That passage is:

> "As in the field of politics so in social matters, short-cuts and sudden leaps taken in defiance of the laws of evolution which govern complicated organisations as well as individual lives end in failure after causing endless suffering. In politics as well as in social matters the task before the people of India is laborious requiring unceasing labour, patience, sacrifice and intelligent direction."

Have I anywhere transgressed the lesson contained in these words? Do these words mean that because short-cuts and sudden leaps end in failure, therefore no reform of any kind is to be effected, and no wrong of any kind is to be remedied? Does this mean that you should sit dumb and helpless and allow evils to flourish? Have I ever said that in social matters the task before the people of India is not laborious, requiring unceasing labour, patience, sacrifice and intelligent direction? Is not the fact that I had to work unceasingly and patiently with what little intelligence I possess for 4½ years before one Bill of mine, the Child Marriage Bill, was passed and has not this Bill dealing with a disability of a particular class of women, taken two years to reach the stage when I am able to move that the Bill be referred to a Select Committee? Have I done anything in the nature of a short-cut or a sudden leap? Have I proposed that the caste system as it obtains at present in Hindu society be made illegal and punished as an offence? That would have been a short-cut. Have I done so? Have I ever said that an act of a Legislature will make a man honest or it will purge society of all its evils? But, then, what is wrong in what I said? Have I now said: Pass an Act in this House and all will be well; all men will become honest and the Hindu society will be free from all evils? If I have attempted to get an Act passed to remedy a minor or major evil or remove a disability from which the Hindu widows suffer, have I done anything to give a lie to the statement quoted above? The task of purging the Hindu society of the evils it suffers from is difficult enough, is wearisome enough and is long enough, but it is the existence of men in that society with the notions of the cavemen, with the ideals of the Stone age, who wish to bring down humanity to the level of the obsolete old world, ideas that is making the task still more difficult, still more onerous, far longer and far more wearisome. Sir, I will leave it at that and also leave with it my Honourable friend Raja Bahadur Krishnamachariar.

I will now proceed to say a word or two about what my Honourable friend Mr. Lalchand Navalrai says. He says that he is not a reactionary and that he supported the Child Marriage Bill. He says that the present Bill is badly drafted and therefore he opposes it. As an illustration he says:

> "So far as the giving of the share for Hindu widows is concerned the preamble says: 'A Bill to secure a share for Hindu widows in their husbands' family property' it does not define the share."

He complains that the preamble does not define that share. Now, may I ask him, if the preamble of a property Bill has ever defined a share? Then he says that the Hindu law divides the property, on partition, in particular shares and those shares are not shown in the Bill. He complains that my Bill does not show clearly what share a widow would be entitled to. This reminds me of a story which many Honourable Members may have read. The love romance of Yusuf and Zuleikha was recited by a poet and after it was finished and everybody had enjoyed it and said that it was very good, one of the hearers got up and said: "This romance is very good, Sir, but was Zuleikha a man or a woman?" This is how he understands things.

My Honourable friend Mr. Muhammad Azhar Ali says that he neither opposes nor applauds the Bill. He only wants to know why I have applied the provisions of the Bill to the Sikhs and Jains. Are they sub-sects of the Hindus? Are also the depressed classes Hindus? To use his own

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words, are both the higher classes and the depressed classes to be put under the Hindu religion. This is no occasion to enter into a philosophical examination whether Sikhism and Jainism are parts of Hinduism. But the widows amongst the Sikhs and Jains and the so-called depressed classes are in the same plight as those of the other Hindus and they are suffering under the same disability, and the only way to help them and ameliorate their lot is to include them in the Bill. I hope this will satisfy my Honourable friend.

I now come to the Honourable Sir Lancelot Graham. His speech, I am sorry to have to say, is not free from misrepresentations and wrong inferences drawn from facts. To begin with he remarked that he thought it right to intervene at an early stage of the debate to state the Government's position and he then stated it. I question the justification for a Government to intervene at an early stage of the debate on a piece of social legislation, unless the Government support that legislation or have to say that they are neutral. If the Government do not wish to support a measure but wish to be guided in their choice, whether to support or to oppose it, by the knowledge of what support the Bill has got in the House, they must wait till a majority of speakers have spoken in the Assembly. To intervene otherwise early in a debate is to give a lead to the Assembly to oppose a Bill which seeks to remedy a social evil, and Government have no right, I submit, to do so unless it is their intention to help to perpetuate an evil and they are resolved that the people of India shall not make any social progress, which I think is the foundation of all progress. My Honourable friend has misstated the policy and attitude of Government towards social legislation. He says that Government would not support any measure unless it is shown that the measure has a very very strong majority of opinion behind it. Is there any moral sanction for such a policy? And has that been hitherto the policy of the Government which it has pursued? Has the policy of the Government not been different? My Honourable friend Sir Hari Singh Gour has, by quoting instance after instance of social legislation undertaken by the Governmen of India, fully proved that the Government have initiated and supported social legislation that had, according to their view, moral sanction behind it, though those legislative measures were opposed sometimes almost unanimously by the people. In order to prove that the Honourable Member who spoke for Government has not presented the attitude of Government rightly, I would quote from the speech of a responsible Member of Government, the Honourable Sir James Crerar. Speaking on 4th September, 1929, in the Legislative Assembly when the Hindu Child Marriage Bill was on the anvil, he said:

"The real truth, Sir, with regard to the attitude of Government in this matter, as in other matters of social legislation, is one which I think I may state in a few words. It occupies, I frankly admit, a middle course. I suggest, indeed, I most strenuously contend, that in the extreme of rash, hasty and intemperate legislation and the opposite extreme of obscurantism and purblind conservatism the dangers which lie are hardly distinguishable in their magnitude. What I have always contended for is that, if important projects of social legislation are to be undertaken as they must be undertaken, it should be after a careful and deliberate examination of the evils which you are endeavouring to correct, and after the fullest ventilation and consultation of public opinion; and that in matters of that kind we should make every possible endeavour to ensure that, behind such measures as we undertake, we should have that degree of public support which is in fact essential to the effective administration of any legislation in such matters?"

Does this enunciation of policy stipulate that a measure to receive support from Government must have an overwhelming majority of opinion behind it and that it is not for Government to consider whether it is a good or a bad measure. The Honourable the Home Member lays down three propositions, that the Bill should be proposed after a deliberate examination of the evil it seeks to remedy, secondly, public opinion should be consulted and thirdly there should be reasonable support of public opinion behind it. Has Sir Lancelot Graham not completely ignored the first two conditions when he enunciated his policy and exaggerated out of all recognition the third? Sir, my Bill proposes a remedy to stop an evil the existence of which is admitted by the highest authorities in India and not denied by Government. This Bill has been before the public for over two years. Government have circulated the Bill and consulted public opinion about it and I claim that it has a majority of public opinion behind it. Not only is the majority of those consulted by Local Governments in favour of the Bill as now proposed, but the majority of the speakers in the Assembly are in its favour, which fact alone is an index that public opinion in this country supports the Bill. The Bill therefore fulfils the conditions laid down by the Home Member in his Simla speech to be entitled to Government support. The Honourable Member speaking on the same Bill further said:

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"At any rate, Sir, I wish to make my position, the position of Government, perfectly clear beyond any shadow of doubt. It is this. We are convinced that this evil exists; we are convinced that the measure of Rai Sahib Harbilas Sarda is, at any rate, a first step in the direction of seeking a practical remedy. Where we find so great an evil and where we find a promising remedy, we feel that we must support what we think to be right."

My Honourable friend was a little unfair to Mr. Yamin Khan. He said that Mr. Yamin Khan supported the Bill because he was a gentleman and a barrister. He has ignored the reasons given by Mr. Yamin Khan for supporting the Bill. He had said:

"I have come to know many cases in which the Hindu widows suffered a great deal. I have appeared on their behalf and I found them in the most miserable condition and I found a great deal of injustice was done in the name of law and religion."

Further on he said:

"I am glad Mr. Sarda supports my views, that these social laws are made for the time being to suit society. . . . .I have seen a good many widows deprived of their food while they really enjoyed great luxury in the time of their husbands. If it is joint family property, the reversioner or the brother of the deceased does not treat the widow with as much cordiality as is her proper share. It is a pity that a woman, as soon as she loses her husband, loses not only her partner in life, but also loses her right of enjoyment, and she becomes dependent on the charity and goodwill of the relations of the deceased husband. . . . .In many cases they are not treated like human beings."

This is the reason why Mr. Yamin Khan supported the Bill and not because he was a gentleman. Does the Honourable Member mean to say that those who do not support the Bill are not gentlemen? My Honourable friend further said:

"The debate has been a listless debate and if it is permissible to mention the galleries a singular emptiness in the galleries."

He then compares this state of things with the enthusiasm evoked by the Child Marriage Bill. You can see, Sir, that conditions are now quite different from what they were three years ago. In 1929 there was no

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upheaval in the land, there was no serious agitation, no grave unrest and the women had only their domestic duties to attend to. But the state of affairs is quite different today. There is an upheaval in the country the like of which was never seen in the memory of the present generation, unrest is universal: disaffection stalks in the land, trade is ruined and the jails are filled, taxes are high and the Government exchequer is empty. Is this the time when women will come out or even the men will enthusiastically come forward to support a social measure. But so far as the women are concerned, every women's conference in the country held since the introduction of this Bill has whole-heartedly supported it. The women's associations throughout the country have without exception demanded the passing of this Bill. I will read here a few of the letters and telegrams that have come to me. Let me read here a few of the opinions of the women's associations in the country.

"Whole-hearted support to Mr. Sarda's Bill to establish the right of inheritance by widows was recorded at a meeting held under the joint auspices of all the Indian Women Associations of Bengal at the Mary Carpenter Hall, Mrs. Kamini Roy took the chair. The hall was fully packed and the attendance, besides a large number of Marwari ladies, including Mrs. P. K. Roy, Lady Bose, Mrs. Kalyani Mukherji, etc."

They passed a Resolution whole-heartedly supporting this Bill. It would do good to the Honourable Members from Bengal to read the report published in the *Liberty* of the 25th February 1930, for their benefit.

I will now read a few telegrams which I have received during the last three days. Here is one from Bombay:

"All-India Women's Conference at Madras sessions strongly supported Hindu Widows Inheritance Bill. Letter follows. Social Secretary, A.-I. W. C."

Then from Dr. Muthulakshmi Reddi, Madras:

"Women's Indian Association supports Sarda Bill secure widows' share in family property."

Another telegram is from Rani Rajwade of Gwalior, the Organising Secretary of the All-India Women's Conference:

"Sir Graham expressed doubts in the Assembly regarding volume of support behind Sarda Hindu Widows' Inheritance Bill. I wish to apprise you of the general support obtaining throughout constituencies of All-India Women's Conference to this measure in view of which conference in annual session Madras strongly protested against existing legal disabilities of Hindu women in respect of personal property and property rights and even demanded appointment of All-India inquiry committee in this behalf. Therefore request Government should lend whole-hearted support. Literature follows."'

This is a letter from the Conference of Delhi women and their Resolution is this:

"This conference of Delhi women lends its whole-hearted support to any legislative measure which may be designed to recognise and enforce the right of Hindu women to private property and inheritance."

Then a telegram from that honoured lady, Sharifa Hamid Ali:

"Konkan Women's Conference urges Government not accept amendments Sarda Act. Support Bill securing share Hindu widows. Urges legislature make provision mothers, sisters, daughters."

These are the telegrams which I received yesterday:

"Baroda Women's Association heartily supports your Bill."

The Bihar constituency of the All-India Women's Conference wire as follows:

"Women of Bihar assembled in meeting whole-heartedly support Hindu Widows' Inheritance Bill and request Government to support it or at least give freedom of vote to official members."

This is from Madras:

"Madras constituency All-India Women's Conference request Government support Widows' Inheritance Bill."

This is the copy of a message sent to the Private Secretary to the Viceroy:

"Please convey our message to His Excellency. The women of Amraoti assembled in public meeting whole-heartedly support Hindu Widows' Inheritance Bill and request Government to support it or at least give freedom of vote to official Members. Secretary Berar Women's Conference."

I will now read some of the Resolutions passed by women's associations. This is from Hyderabad (Sindh):

"This Conference gives its whole-hearted support to R. S. Harbilas Sarda's "Hindu Widows' Inheritance Rights Bill" to be discussed at the Delhi session of the Assembly and urges the Members of the Central Legislature to help the speedy passage of the Bill and thus ameliorate the lot of the long-suffering Hindu widows."

Under the auspices of the local Committee of the All-India Women's Conference a public meeting of women was held at Karachi, at which the following Resolution was passed:

"This meeting of women of Karachi strongly supports Rai Saheb Harbilas Sarda's Hindu Widows' Inheritance Rights Bill to be taken up at the Delhi session of the Assembly."

Another meeting held at Karachi under the Presidency of Begum Haji Abdulla Haroon passed this Resolution:

"This public meeting of the women of Karachi assembled together as a sub-constituent Conference of the all-India Women's Conference strongly supports R. S. Harbilas Sarda's Hindu Widows' Inheritance Rights Bill to be taken up at the Delhi session of the Assembly."

This telegram has just come:

"Representative gathering of seven women's associations whole-heartedly support your Bill and request Government to support it or at least give freedom of vote to official Members. Wire sent Viceroy. Faridoonji."

This is Mrs. Faridoonji, who is Secretary of the Women's Conference and General Secretary of the All-India Women's Education Fund.

I do not know if I should read the 20 or more Resolutions passed by different women's associations in different provinces from Andhra, Hyderabad, Karachi, Sukkhur, Bombay, Indore, East Punjab, Hoshiarpur, Mysore, Tamil Nadu, etc. This telegram is from the Secretary of the Kotah Women's Conference. They are coming as I am speaking:

"Kotah Women request you to do all you can for Hindu Widows' Inheritance Bill. Wish success."

An Honourable Member: But Kotah is not in British India.

Diwan Bahadur Harbilas Sarda: This is from Mrs. Kitchlew, President of the Gwalior Association:

"Women of Gwalior assembled in public meeting whole-heartedly support Sarda's Hindu Widows' Inheritance Bill and earnestly appeal to Government to support same."

Speaking on the 26th January, the Honourable Sir Lancelot Graham said:

"The Honourable gentleman himself certainly displays his sympathy for the Hindu widow and would like to do something for her. He is not alone in that attitude; we all share it. But the question is whether this is the right method and this the right time, and that is where we join issue with the Honourable the Mover of this Bill."

Lip sympathy all this! Damning with faint praise, as they say. What is the right method please if not this? Will the Honourable gentleman promise to take the right method at once, and I propose to give up this Bill.

The Honourable gentleman again did me less than justice when he said or rather reported me as saying:

"My Honourable friend said that this little sheaf of opinions was not as large as it ought to be, and I think he indicated that that is the fault of Government."

I never said in my speech that the sheaf of opinions was not large. All I said was:

"Of the opinions recorded all are of men or bodies of men except 3, two of which opinions are of individual women, and one of a women's association. This shows that the circulation of the Bill was unfair and that injustice has been done by Government by not inviting the opinions of the class for which the Bill is intended. The Bill ought to have been circulated to all Women's Associations and prominent women in the country. Had this been done, there would have been a chorus of approval of the Bill in the country as the entire womanhood of India would have been found in favour of the Bill; this is clear from the unanimous support which all the women consulted have given to the measure They all heartily support the Bill. The Bill has also received support from one and all of the Women's Associations that have come to know of this Bill."

I did not say a word of what the Honourable Sir Lancelot Graham represents me as saying, that I was sorry that the sheaf of opinions received was not large, and that more opinions in favour should have come. I never said that. All I said was that the Government had not circulated the Bill to women's associations as it should have been done, because it is the women who are really affected by this Bill. This is all I said. To interpret this as a regret that the sheaf of opinions was not large is a travesty of facts. Then he says; if people are not interested, you cannot make them write opinions to Government about Bills. Is this not a misleading statement? Are not Government at fault if they have not consulted prominent women of India in the matter, especially when we know that women are considered fit to work on the Round Table Conference and on the Committees appointed to supplement the work of that Conference, and are considered fit to go as members of a commission to the South African Government? If the Bill was not sent to them and they did not send their views to Government, who is at fault? Government alone can call for those opinions. Are then Government at fault or anybody else?

But what will astonish every one and what surprised me most was the conclusion to which the Honourable Member arrived. He said:

"The attitude for which Government stands is that there must be evidence that there is a very strong feeling in the Hindu community before they will lend any support to proposals to interfere radically with the Hindu Law. On those grounds I, on behalf of Government, oppose the motion."

On what process of reasoning, on what canons of logic does the Honourable spokesman for Government rely when he says that because he does not find sufficiently large support from the Hindu community to the Bill, he will not support the Bill and, therefore, he will oppose it? Government have sympathy with the object of the Bill; Government do not oppose the proposal to give a share to a widow in the family property; Government will only support social legislation if it has the strong support of the people; but as Government do not find strong support they will actively oppose it. Is there any reason why you must injure a man because you do not love him? Why cannot Government say that they cannot support the measure and stop there? Why should Government join hands with those who are against all social reform, however useful or necessary and who have no sympathy with widows in their disability? Why cannot Government remain neutral: Why cannot Government say, well, they will not take the responsibility of supporting or opposing it and will therefore stand aloof and let the non-official Members of the Assembly or those who alone are affected by it decide the issue and they will allow the Bill to be passed or rejected as that vote decides? In the alternative, if Government are not opposed to all social reform, they can let the Bill go to the Select Committee and then ask for re-circulation of the Bill as it emerges from the Committee if it is found necessary to do so and await the verdict of the public. Why must they oppose its being sent to a Select Committee?

Sir, before I sit down I want to say a word or two with regard to what fell from the Honourable the Law Member. The Law Member was not present at the debate last time and evidently he has been put up by Government now, as what fell from Sir Lancelot Graham was not enough to convince the Members of the soundness of the Government's case. We all know what an eminent advocate the Law Member was before he came to the Government of India. We know how cleverly, how skilfully he can put up a case which is lost from the very beginning. The Honourable the Law Member does not say that the object of the Bill is bad. He says the Bill has been so badly drafted that he does not know what the principle of the Bill is, that he has been searching for it with a microscope but has not been able to find it; and therefore he says it cannot go to the Select Committee. He made one or two further observations with which I shall deal later.

Now, Sir, Government have not provided any form which could, before the provisions are given, say in the margin that the principle of the Bill is so and so. You have to take the principle of the Bill from the provisions of the Bill, from the Statement of Objects and Reasons, from what the author of the Bill says is the principle. . . . . .

"Tasnif ra Musannif niko kunad bayan."

Which means "The author can best explain what he has written."

This is what is said in Persian. And when I say what the principle is, and the Statement of Objects and Reasons says what that principle is,

[Diwan Bahadur Harbilas Sarda.]

that should be taken as the principle of the Bill. After stating what the legal status of widows is, I stated in the Statement of Objects and Reasons that this Bill "proposes to give relief to Hindu widows by giving them a share in family property and making them sole owners of their deceased husband's personal property". The object of my Bill is quite clear from this. Then in concluding my speech on the 26th January I said this:

"In conclusion, I wish to emphasise that by accepting my motion, the House only accepts the principle of the Bill, which is that the lot of a Hindu widow, who at present neither gets a share in her father's property nor in her husband's, should be ameliorated by giving her some right in the property which belonged to her husband, for her support in her widowed life."

The principle of the Bill is only that some share in the property which was her husband's should be given to her to ameliorate her lot during her widowhood. I further said:-

"How much is to be given and in what shape, are matters not vital to the Bill and will be decided by the Select Committee and this Honourable House. It is the business of the Select Committee to improve the draft where necessary and make clear any point that may be obscure and define the extent and nature of the right that the Bill gives to the widow. This may be necessary in view of the fact that when a man leaves a widow and one or more sons under the Dayabhaga law, a son does not become a co-parcener by birth though he does under the Mitakshara law. The Bill has absolutely no intention to disinherit any son. I appeal to the Honourable Members of this House—to my European and Muslim colleagues, that this Bill attempts only to give to the Hindu widow only a part of what their own laws already give to widows governed by those laws. . . . . ."

Then the Honourable the Law Member said that clauses 3 and 5 were in conflict and that the Bill over-rode the testamentary right of a Hindu. Clause 3 gives a Hindu widow a share in the joint family and defines what the extent of that share would be. Clause 5 says that:

"a widow's claim to maintenance from the funds of a joint family shall cease on the *partition and separation* of her share as provided in this Act."

I do not see what the difficulty is. As regards maintenance, my Honourable friend said it was not clear whether in certain instances she would get both the maintenance and her share. I do not say how that view can be justified by reading this clause. This clause plainly says that a widow under the present law has a right of maintenance. Until she invokes the new law and gets a partition of the property made and she is put in possession of that property, she will get maintenance only, because till then the law contained in this Bill would not have been given effect to. There is no occasion when both the maintenance and the share which she can get may be given to her.

As for testamentary right, I think I will repeat what I have said before. If a man makes a will, it is after his death that his widow succeeds to property and she will be entitled only to the property to which her deceased husband was entitled at the time of his death. Though the testament will take effect only after his death, still during his life-time he had given away his rights to the property, and therefore the widow will get nothing and the testament will take effect. Then it must be remembered that, except in Bengal, people in the whole of India are governed by the Mitakshara law, and that law does not allow a man to give away his right in a joint family property by will or testament,—he has no right to make that will. In Bengal the thing is different. But if the man makes a will, that will take effect, and this law will not take effect.

As I have said, Sir, I am no legal draftsman. If the object is clear, if the principle of the Bill is clear, if the wording does not adequately convey the proper intentions of the Bill, it ought to be altered properly to express it. After all, I come here with a certain remedy for a certain disability. If I say this is my remedy and if the words I use do not exactly express, it, then the Government draftsman and the Select Committee appointed by this House have every opportunity to put in proper form the intentions of the author, and this House can agree or disagree with the principle. Take any law and try to analyse it, you will find a lot of interpretations can be put on its sections. As my friend, the leader of my party, said, look into the provisions and the details of any Bill with a microscope, you can never find unanimity of opinion. What is done in these courts? What do our eminent lawyers do? They are there because the words of the law are differently interpreted by different people. The Bills framed by the Legislative Department of the Government of India admit of such different interpretations being put by men of superior intellects that we have every day battles of wits in courts. Whatever human ingenuity may devise, there will still be differences of opinion with regard to the interpretation of any particular Bill or any particular statement. The reason is that the human mind travels faster, and it goes much further than human language can express; human language can never keep pace with the activity of the human mind, and so long as this state of things lasts, and this will last till the end of the world, different interpretations will continue and you cannot say that any law is perfect and free from all doubts.

My friend laid stress on the words "family property" contained in the proviso to clause 3 of this Bill. The sole object of this proviso is this. If a man dies leaving a widow and instructions to her to adopt a son, and the widow in obedience to her Lord's wishes adopts a son, that son shall get half the property left by his adoptive father. The widow shall not remain the owner of the whole of that property; she shall share it with the adopted son. Of course, as I said in my speech, it would be understood that if a man leaves a son he will have his share. A man under the Mitakshara law becomes a coparcener by birth and therefore he will get a share, and the widow will get a share equal to the son. If the man does not leave a son and there is an adopted son, still that adopted son will get the same share in the property as a natural son would have got. As regards family property, I quite admit that the phrase "family property" may be differently interpreted, but my object was only to show the origin, the nature of that property, I simply mean the property which was part of the undivided Hindu family and which came to the widow as her share on her claiming her deceased husband's share which this Bill gives her. The Honourable the Law Member said that it was not possible to make this Bill all right, by re-drafting it, and he meant evidently to say that the Bill would be so entirely changed that the nature of the Bill would be different. In the first place, I say that the nature of the Bill will not be changed. But supposing the Bill is materially changed, the Government will be at liberty, this House will be at liberty, to re-circulate the Bill for fresh opinions from the public and then bring the Bill again before the House. I want to ask Government, did they raise any objection on this ground, when they converted a civil measure into a criminal measure in the Select Committee? When they could conscientiously convert a civil Bill into a criminal measure, (*An Honourable Member*: "Shame")—in the Select Committee with the aid of the Government draftsman—what earthly reason is there against this Bill being

[Sir Hari Singh Gour.]

Hindu Divorce Bill has become law, and I shall read to you the main provisions of that Bill or rather law. The Maharajah has now given his assent to the enactment of legislation which provides:

"That a married man or woman will be able to seek relief by the annulment of his or her marriage if his or her partner is missing and not found for seven years or is converted to another faith or is initiated into asceticism or constantly for three years treats her or him with cruelty, or deserts her or him or is constantly under the influence of drink or drugs or other women or men. Marriage will also be annulled if one is able to prove that his or her partner was at the time of marriage suffering from a disease or was deaf, mute, blind, mad or was converted or was under-age or that he or she was tricked into marriage."

Now, this is the Baroda Hindu Divorce Act; and I understand that upon the lines of this Act other progressive Indian States like Mysore, Indore and Gwalior have either enacted or are about to enact divorce laws of their own. I therefore feel, Sir, that whatever may have been the fate of the pioneer of similar legislation in this House in 1928, the seed then sown has germinated and is bearing fruit. I therefore feel that we in British India, profiting by the example of the Indian States, should once more reconsider our view and give to the women of India that relief which the sages of old, centuries ago, had given them, and which, as I shall presently point out, they are entitled even today to receive, though in a circuitous manner.

An Honourable Member: Then why do you want a law?

Sir Hari Singh Gour: I shall very briefly recapitulate the present condition of law in this country and then answer the question of my interrupter. The present state of the law is this. As Honourable Members know, Hindu society is divided into four castes. The last of these is known as Sudras. Now these have since time immemorial had the custom of divorce. Secondly, even in judicial decisions this custom of divorce among Sudras is well recognized. Leaving therefore the vast bulk of the Sudra community out for the present, we have the three higher castes known as the twice-born or Dwijas. Among these, the practice of divorce is regulated by local customs Honourable Members who hail from Malabar or its vicinity will testify to the fact that the dissolution of marriages and the system of divorce are practised also in parts of Malabar; and those who hail from the further north will tell you that a similar custom prevails in the Terai of the Himalayas and in all the tracts on the Himalayas influenced by the Buddhist religion. Apart, however, from class or local custom, the law of divorce is applicable to those who have married under the Special Marriage Act of 1872 or under the amending Act XXX of 1923. There are others who are entitled, whether men or women, to divorce their spouses under what is known as the Native Converts Dissolution of Marriage Act of 1866 under which, when a person is converted to Christianity, he becomes entitled to demand through the court the restitution of conjugal right upon his conversion; and if the spouse refuses the restitution asked for, he or she is then entitled under the Statute of 1866 to obtain a divorce. I know of two cases within my knowledge where Hindu women have become converted to Christianity with the sole object of obtaining release from their husbands under this Act. Apart therefore from the customary law there is a loophole provided in the Act of 1866 that with the renunciation of the Hindu religion and conversion to Christianity, you obtain the privilege of

securing a divorce as provided in the Act of that year. I need hardly remind Honourable Members that such conversions are not becoming, and I do not think there is a single Member in this House who would encourage such conversions to which I refer.

(At this stage Mr. President vacated the Chair, which was taken by Mr. Deputy President.)

Then, again, Sir, those of my lawyer and other friends who have read the Indian Evidence Act will remember that there is the rule of evidence that if the husband or the wife has disappeared and is not heard of for a period of seven years then there is the presumption of death and in that case the other party to the marriage becomes entitled to contract another marriage.

4 P.M.

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): Is my Honourable friend not aware of the Bhawal case?

Sir Hari Singh Gour: My Honourable friend is perfectly right that where a householder renounces his status and becomes an ascetic and disappears, the Hindu law recognizes his conversion to asceticism as civil death.

Mr. D. K. Lahiri Chaudhury: But if he again comes back to society and asks to be reinstated?

Sir Hari Singh Gour: Sir, I may point out that when a householder becomes an ascetic, he loses under the Hindu law not only his property but his wife as well. (Laughter.)

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Let him come back again to the Arya Samaj.

Sir Hari Singh Gour: This, Sir, is briefly the state of the law relating to the dissolution of marriages. I wish to point out to Honourable Members that even within the narrow confines of custom, and custom so well recognized as it is in the case of the Sudras, the courts give decisions based on the facts in each individual case, and it is a notorious fact—a fact which has been recognized, as I have said, in the numerous decisions of the various courts—that if a party goes to court for a declaration that the marriage of the parties has been dissolved under the customary law and by the caste Panchayat, the court still demands evidence the quantum of which naturally depends upon the caste of the parties. But even assuming that the case is based on evidence, the municipal courts of our country do not yet possess matrimonial jurisdiction: all that they can do is to declare a fact, if it is a fact, and they cannot do anything more. That is a very limited jurisdiction of a general character, not appropriate to the dissolution of matrimonial ties. I therefore think that even in the case of persons who under the present customary law are entitled to the right of divorce, the courts possess an inadequate machinery for enforcing those rights. And that in itself requires an amendment of the law. But I am not here to ask you merely to rectify a processual defect in that machinery. I have come here to ask you to give your concurrence to vindicate the rights of the women of India, by which I mean the women of the Hindu society, who, for ages past, have suffered intolerable wrongs by the one-sided law made by men, by the one-sided custom which has grown up and become encrusted upon the more equitable provisions of the written text. In the Statement of Objects and Reasons appended to my Bill I have given quotations from two great sages, Narad and Vashisth and have

[Sir Hari Singh Gour.]

pointed out that both these law givers of antiquity recognised the righteousness of divorce in certain cases: and, as they were merely recording the then current custom, and were not innovating a new principle of law but re-affirming and giving publicity to what was then the tribal and general custom. I submit that that custom with which we started in the mediæval age has become obscured and encrusted by the encroachments of our sex upon the primary and primitive rights of womanhood. I am therefore asking you to-day to do nothing more—a great deal more women deserve—to give nothing more than to re-establish the law and to reaffirm the principle for which Narad and Vashisth, the two law givers of antiquity, stood in a generation now long since passed. That, I submit, is a very bare elementary right which I ask this House to concede to the Hindu women of this country.

Those who belong to more advanced religions and are subject to more modern law will easily sympathise with the moderate demand that I make in this Bill. For what do I demand? If Honourable Members will turn to the operative clause of my Bill, they will find that all that I ask them to do is to give sanction to the annulment of a marriage and to the dissolution of the marriage on the ground of the impotency of the husband, his imbecility, at the time of the marriage or the fact that he was suffering from sanious or ulcerous leprosy. These are the three fundamental facts amongst many more upon which the ancient Hindu wife was entitled to divorce her husband. Honourable Members will find in the quotation I have given in the Statement of Objects and Reasons that the ancient law of divorce was far juster and more generous to the women than my present Bill. As I pointed out I am one of those who believe in the doctrine of *festina lente*, which means move slowly, and I wish to carry with me the bulk of my fellow Hindu opinion in favour of this Bill. Therefore, rather than draft my Bill upon a more ambitious basis, I have confined it within the very narrow limits enunciated in clause 2.

Sir, I have pointed out what the ancient law is and I have pointed out the inadequacy of the present law. Let me point out to the Honourable Members that apart from the Shastric law, apart from the customary law, the custom which has now taken the place of law and dominates the laws of Hindus has given to men the right of polygamy; it has given to the man the right of discarding his wife or wives at his pleasure but it has given the wife no corresponding relief against her husband, even though that husband be congenitally an idiot, even though that husband suffer from leprosy of a highly contagious character and even though that husband be congenitally incompetent. Now, Sir, I ask any Member of this House whether, on a broad ground of equity, the proposition I am enunciating is not irresistable and it is upon that solid rock that I base my case. I have already pointed out to the Honourable Members that the Indian India is getting far in advance of the tardy progress we have made in British India in the matter of social reforms.

Now, let me recall to my Honourable friends one fact. It is a recognised rule of civil law that marriage creates an International status and by the International law and by the comity of all nations the contract of marriage in one country is recognised as amounting to a contract of marriage in other countries. As marriage creates an international tatus so does divorce. If you are to resist the passing of my moderate amendment,

the result would be that there would be a rush to places where the principle of divorce has been accepted. It has already been accepted in Baroda and, I believe, also in Mysore and other Indian States. Therefore, a man marrying here would go there and comply with the law of domicile, which is a very easy thing to do, and obtain divorce in that court. And when he comes back, all that he will say is some unmentionable things about the British matrimonial law which drove him to an Indian State to obtain and secure the elementary rights to which he was entitled.

Therefore, I think that even apart from the other considerations that I have mentioned, to merit international status, the British Indian Legislature must assimilate its law, as far as possible, to the laws enacted in its neighbourhood. If it did, it will go much further than the provision of my Bill. Another point that I wish to draw the Honourable Members' attention to is this: that when we made our laws, or rather when custom and the habits of the people created laws, women were regarded as mere chattels. I do not regard this as any blot upon Indian civilisation because in the patriarchal days that was the lot of the weaker sex in the western countries as well. But the fact remains that while the women of the West have secured larger rights with the passage of time, the women of India on account of their infirmity and ignorance have been driven to the wall. There is only one grand epoch, the red-letter day in the history of India and that is the period of the efflorescence of Hindu culture and Hindu civilisation, when the doctrine preached by Gautama Sakya Muni was the dominant religion of this country, and for a period of 1,200 years when reformed Hinduism typified in Buddhism was the national creed and when those 1,200 years coincided with the national religion, we had a national Government when the rights of men and the rights of women were equal and those who have gone to Burma will realise the equality of the sexes that prevails in that Buddhist and other Buddhist countries. Therefore I say that your ancestors and mine were not opposed to the rights of women. The history of India for 1,200 years has been the history of culture and civilisation the like of which the world has never seen. I therefore want that you conjointly with us should once more recall and revive the glories of your ancient civilisation (Applause). It is inspired by that faith, firm in that belief that I venture to stand before you, and ask you in the name of your own civilisation, in the name of your own hoary traditions inscribed in the sacred books and laws and also in the name of civilisation and humanity to concur in the modest motion that I wish to place for your concurrence (Applause.)

Mr. B. Das (Orissa Division: Non-Muhammadan): Sir, I had not desired to participate this session in these social legislations because my mind and soul are occupied in other grave matters which affect our national interests in the present juncture. The whole of this morning, in fact the whole of this day into my ears have been dinned the speeches of my Honourable friend Diwan Bahadur Harbilas Sarda and also of my Leader, Sir Hari Singh Gour, on alleged grievances of women. The one spoke for the discontented widows and the other spoke for the discontented wives. I do not know how far either of these two gentlemen are or were in the confidence of discontented widows and discontented wives. I would not have risen to speak but as especially certain observations were made by my Leader, Sir Hari Singh Gour, about the women of India which will no doubt exult the heart of that vulgar American woman Catherine Mayo, and probably in her next supplementary volume to "Mother India", she will quote from the speech that was made either by

[Mr. B. Das.]

Sir Hari Singh Gour or Rai Bahadur Harbilas Sarda. (*Mr. B. Sitaramaraju*: "Diwan Bahadur"). Even that title stinks in my nostrils. (Laughter). Much has been spoken about women's rights and wives' rights. Sir, my Leader Sir Hari Singh Gour knows that we are on the threshold of new reforms. Everybody knows that women are going to be enfranchised. Why does he not wait for two years when women will sit in the Assembly and they will legislate for themselves?

(At this stage, Mr. President resumed the Chair.)

If there are really discontented wives, who are tired of their husbands and who want a fresh trial, they will separate themselves after 8 months from a husband who is alleged—he has quoted from Narada and Vasishta—to suffer from impotency. Who is to judge of the impotency of a husband? Doctors are now too many and there are also too many lawyers in India. Are the lawyers to prosper at the cost of husbands and wives? Are the doctors to thrive at the expense of discontented wives? The Honourable Members on the Treasury Benches have sometimes been judges and if a discontented wife goes before a court, the judge will say: "Bring a doctor's certificate whether the man is really a potent or an impotent husband". The wife will have to pay the doctor's fees and also lawyer's fees. Most of the Honourable Members of this House are lawyers and they will draw larger fees. (*Mr. Gaya Prasad Singh*: What about Engineers?") The Engineer will give you sound advice and for God's sake go with him to the correct lobby. Everybody knows that now women are getting modernised. I do not understand much of the modern woman but the tendency of modern womanhood is to get dissatisfied with everything and get discontented and probably as we know of modern lives, women are never satisfied with their husbands or their condition of living or with what their husbands allow them. A modern woman may discard her husband after six months of marriage on some pretext, as proposed by my Honourable friend Sir Hari Singh Gour and seek fresh ones. At the beginning of my speech, I said I had no intention of participating in the debate on this Bill and I advise Honourable Members, with all respect to my Leader Sir Hari Singh Gour, to wait for two or three years. Let us have a few discontented wives on the floor of this House and let us hear their views and their experience, and if they advise that such legislation is necessary, I, for my part, will whole-heartedly support those discontented wives.

Mr. President: There is an amendment standing in the name of Pandit Satyendra Nath Sen and I call upon him to move it.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadan Rural): Sir, although I gave notice of an amendment for circulation, I have decided to oppose the Bill outright, firstly because I now find that opinions had been collected on the self-same Bill on a previous occasion, and secondly because I find that the Bill has been condemned by an overwhelming majority of those opinions. At the outset let me deal very briefly with the antecedents of this Bill. The Bill was introduced in the year 1928 on the 22nd March, and a motion for circulation was adopted on the same day. It was taken into consideration on the 8th September of the same year, and it was vehemently opposed by prominent personages like the late Lala Lajpat Rai. The result was that the Honourable the Mover thought it advisable to withdraw it. Sir, the Honourable the Mover during the debate in 1928 threw out a challenge to the Honourable Members

to come forward and say on what grounds the Bill was opposed, and he has quoted Shastras in his favour. Sir, if you will bear with me for some time I hope I shall be able to prove to the satisfaction of the Honourable Members that the ideas of the Honourable the Mover and his followers, if any, are quite misconceived. In the Statement of Objects and Reasons he has tried to develop the idea that disqualified persons cannot or should not procreate children and therefore their marriages should be declared null and void. He begins thus:

"Under the Hindu law the main object of marriage is the procreation of a male offspring. It was so necessary that that result was obtained by the practice of *Niyog* which provided the wife with a companion when the husband himself was imbecile or impotent."

Sir, as regards the main object of marriage the procreation of a male offspring may be the main object, but not the ultimate object. The ultimate object is *pinda*. And I ask the Honourable the Mover, the son whom the woman is going to have will offer *pinda* to whom? To his former father or to his present father, to his procreator or to the former husband of his mother who is nobody to him now?

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): The two fathers will settle that among themselves. (Laughter).

Pandit Satyendra Nath Sen: If it is argued that the *pinda* will benefit the mother and not the father, then I say in reply that *pinda* is not at all necessary for the mother. The mother attains heaven not by virtue of *pinda* but by virtue of her chastity. The Shastra says:

"Patim shushrushate yena tena swarge mahiyate"

and the Shastra is clearer below:

"Swargam gachchhatyaputrapi yatha te brahmacharriah."

Even without an issue she will go to heaven.

Now as to *Niyog*. The system of *Niyog* has been discontinued, but why has it been discontinued? It has been mentioned no doubt in the Shastras but not without a bit of condemnation. It has been prescribed as the last resort in extreme cases, for example, the extinction of a race, and so forth. And when this has been discontinued, what is the Honourable the Mover going to give us as a substitute? A much worse thing,—procreating innumerable sons pushing aside the old man whom she had taken as her lifelong companion.

Then he says:

"As that practice has fallen into disuetude, it is necessary that wives married to such persons should obtain relief; since, if they can no longer practice *Niyog* they should be free to adopt the only honourable course open to them of securing their release from the bondage of such marriages."

He continues:

"This is all the more necessary, since under Hindu law both the husband, suffering from any of these disabilities and his wife are excluded from all rights in property."

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Sir, I am not a lawyer, but so far as my knowledge goes these disabled persons are excluded from the right to property but they are certainly entitled to maintenance. And although they are not entitled to inheritance their sons will come in again, in their due course, to inherit their grandfathers' property.

An Honourable Member: Even the son of an impotent man?

Pandit Satyendra Nath Sen: I will come to that. The Shastra says:

"Tesham utpanna-tantunam apatyam dayam arhati."

This is, the grandsons, wherever possible will inherit. As to impotent men, my explanation is that although the system of *Niyog* has been discontinued, the system of adoption is still there. He can adopt a son, and as to adoption I should like to quote the Honourable Member himself.

"If at all, adoption is to him a greater necessity, otherwise, since his sufferings in this life are due to the sins he had committed in his past life, if he dies with obsequial rites unperformed he will be exposed to even greater torments in his next life against which adoption is the only cure."

My point is that the marriages are not illegal and when these marriages have once been performed you cannot back out. It may not be very desirable that one should give away his daughter to such persons, but when the marriage is performed it cannot be revoked. I also think that the statement that wives are excluded from all rights to property is not correct, because the wife is not excluded from the rights to which she is otherwise entitled. Now, he quotes some texts in his favour. He quotes Narad, Chap. XII, verses 8, 16, 19, 24, 37, 97, etc. I shall take up verses 8, 19 and 37 together. These three verses 8, 19 and 37 only advise careful examination of the prospective bridegroom and say nothing about the position of the couple after the marriage has been performed. I am giving my own comment. I shall come to the Shastric texts later on. I submit that such advice was very necessary, because if the marriage was once performed the Shastrakara meant that the marriage could not be dissolved and therefore he advised such careful examination. The next three verses, namely 16, 24 and 97 speak not of a married couple but of a betrothed couple, as I shall presently prove. One of the verses runs thus:

"When a bridegroom goes abroad after having espoused a maiden, let the maiden wait till her menses have passed three times, and then choose another bridegroom."

"Till her menses have passed three times" means only three months. Does it stand to reason that a life-long relationship is to be given up after waiting for three months only? (*Mr. B. Sitaramaraju*: "That is about the duration of the Assembly session".) Yes, and if that be the case, then many Honourable Members who have come here without family will have a sad experience before long. (Laughter.) That the reference is to a betrothed couple is not my explanation, nor of certain ingenious Pandits but it has been made abundantly clear by Narada himself, the author of the Shastras quoted by the Honourable the Mover. Some members are curious to hear from me the original verses—I tried to avoid them—but in order to satisfy their curiosity I shall quote some of them. The author says that marriage consists of two parts:

"Stripumsayastu sambandhad varanam prag vidhiyate
Varanad grahanam pánch samskárotha dwilakshanah.
Tayo rani yatnam proktam varanam dosha-darshanád
Páni grahana-mantrabhyam niyatam daralakshanam."

I shall read out the translation, the English translation of Professor Julius Jolly, a celebrated German scholar:

"When a man and woman are to unite (as wife and husband), the choice of the bride must take place first of all. The choice of the bride is succeeded by the (ceremony of) joining the bride and the bridegroom's hands. Thus *the ceremony (of marriage) is two-fold.*

"Of these two parts (of the marriage ceremony) the choice of the bride is declared to lose its binding force, when a blemish is (subsequently) discovered (in either of the two parties). The Mantra (prayer), which is recited during the ceremony of joining the bride and bridegroom's hands is the *permanent token of matrimony.*"

Then comes the translator's own comment which runs as follows:

"The choice of the bride or betrothal being dissoluble on the discovery of a blemish (in either party), it follows that the act of joining the bride and bridegroom's hands, *i.e., the ceremony of marriage, must be indissoluble.*"

That is the comment that has been added by the celebrated German scholar as he understood the Shastra. The ceremony of marriage must be held to be indissoluble. In this connection I might add that this view has been very clearly supported by the texts of Manu also. He says:

"Tesham nishtha tu vaktavya vidwadbhih saptame pade."

"The marriage is to be regarded as complete—that is, there is no backing out, when 'the seventh step' has been taken. That is the culmination."

And he also made it clearer in that memorable verse—

"Sakrit amsho nipatai sakrit kanyá pradiyate."

"A girl is given away in marriage only once and not more than once."

My Honourable friend quotes Vasishtha in his favour and quotes him as saying:

"And she is called remarried who leaving an impotent outcast or mad husband takes another lord."

The word "remarried" is a synonym supplied by the translator. The word used in original work is "Punarbhu" and it is a technical word which cannot be translated into any other language. It means a woman who again becomes—becomes what?—a so-called wife for a second time. Now, what is her position? The Honourable the Mover has suppressed some portion from this quotation (Laughter) and I shall supply that omission and that will explain the position clearly.

Punar-vivaha is not recognised by the Shastras and therefore it is that they purposely use a technical word for the purpose:

"She is called *Punarbhu*, etc., etc."

The next portion is "after the death of her husband". The original full text is—

"Ya cha kliwam unmattam va bharttaram utsrijya anyam pátim vindáte sá punárbhúh bhavati."

So, the position of such a girl is no better than that of a girl who has remarried again after the death of her husband; and that position has been

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made clearer by one of the twenty principal law givers, named Angiras: he tells us that 'the food served or supplied by such a girl is unacceptable because she is a *punarbhu*'—

"Tasyashchannam na bhoktavyam punarbhuh sá pragiyate."

Now, I come to the "grounds" adduced. The three grounds are—impotency of the husband, imbecility, and the fact that he was suffering from sanious or ulcerous leprosy. Instead of giving my own views, I might quote some opinions which will abundantly illustrate the merits of these points. I forgot to quote the opinions in the very beginning and I think I may quote them now. I shall simply refer to a few opinions and show that this Bill has been condemned by an overwhelming majority of those opinions, and it is refreshing to note that this Bill has been condemned not merely by the orthodox people who are naturally against such a measure but it has been condemned also by men who are highly cultured in the modern sense of the term, men who are in close touch with western ideas and who hold very important positions under the Government. This is what has been said by Mr. Justice Sen of the Allahabad High Court.

"This Bill is directed against the basic principle on which the marriage of a Hindu is founded. Under the Hindu law marriage is not a contract. It is a sacrament and under the shastric text the holy knot once tied is not dissoluble till death. Apart from the popular sentiment the broad principle which calls for determination is whether it is competent to the British Indian Legislature to introduce such a drastic change affecting the foundation of Hindu marriages. Supposing that there was nothing wrong with the husband at the time of the marriage, that marriage was consummated, and that the couple lived happily together for sometime, but subsequently the husband becomes impotent, will that be a valid ground for the dissolution of the marriage? The impotency of the husband may not be of a permanent character. The term 'imbecility' does not admit of a clear definition, and even the very best medical experts are divided in their opinions as to how far and in what respect the absence of intelligence in its application to the normal conditions of life will constitute imbecility.

The Act is intended to afford protection to the Hindu wife. Leaving out of consideration the ideal Hindu wife of the *Purana*, it is very much open to question how far the proposed Bill will commend itself to 99·9 per cent. of the average Hindu wives in this country.

At the present juncture when the country is in a state of ferment produced by causes political and economic the introduction of this Bill is most inopportune."

This is the opinion of Mr. Justice C. C. Ghose of the Calcutta High Court:

"I have considered the provisions of the Bill, and I am opposed to the same. It is unnecessary to go into the detailed reasons because the Bill is of a most revolutionary character and will be strenuously opposed by orthodox Hindus all over the country."

Again, Sir, this is the opinion of Mr. Justice M. N. Mukharjee:-

"The tie, to her conception, is knit by God and is indissoluble. To introduce the idea based on prineiples of contract which are entirely foreign to the conception of a Hindu marriage, will be to destroy the peace and happiness of many a home and will bring incalculable suffering to the offsprings. It is true that there are cases in which the Hindu wife has to suffer, but they are few and far between. Once the door is opened, all the deplorable consequences that divorce laws have brought in their train in other countries will appear in Hindu society and the society will be altogether undermined.

I am of opinion that the Bill, if passed into law, will, notwithstanding that it is to be a merely enabling measure, be a source of very serious evil."

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order: May I draw the attention of the Honourable Member to the time and ask him whether at this late hour it is desirable that he should read from opinions obtained which have been supplied to Honourable Members.

Pandit Satyendra Nath Sen: These opinions have not been supplied this year. These are opinions which were collected on the previous occasion.

Mr. President: And supplied to the House?

Pandit Satyendra Nath Sen: Not now. There are also some new Members and I want to read only a few opinions for their information. I want to speak at some length, because I desire not only to oppose the Bill but also even such an innocent thing as the circulation motion also.

Nawab Sir Sahibzada Abdul Qaiyum (Nominated Non-Official): Why not say that all those precautions should be taken before the marriage is made? (Laughter.)

Pandit Satyendra Nath Sen: Exactly so, Sir. I will finish soon now.

Mr. C. S. Ranga Iyer: On a point of order, Sir. I should like to know whether it is not in order for the Honourable gentleman to talk on this Bill as long as he likes on the subject?

Mr. President: He will be perfectly entitled to talk for a whole day if he likes to do so. I merely wanted to draw his attention to the fact that at this late hour he should abstain from reading opinions which are in possession of the House.

Mr. C. S. Ranga Iyer: I only want some information, Sir. I should like to know whether it is in order for the Honourable Member—I want your ruling in the matter,—to read legitimate opinions from papers which he has in his hand and which most of us have forgotten?

Mr. President: The Honourable Member need not have asked that question. I said that the Honourable Member is entitled to read all the opinions as other Members have been doing on previous occasions. I merely wanted to ask him whether, having regard to the lateness of the hour, he should, in the exercise of his discretion, continue to read opinions which are already in the possession of the House.

Pandit Satyendra Nath Sen: Very well, Sir; then I shall read only the main points, and this will minimise my own task. This is from the opinion of the late Mahamahopadhyaya Pandit Haraprasad Shastri of Calcutta:

"There is no such word as divorce, or dissolution of marriage in the Hindu Sastras. Marriage being a sacrament cannot be dissolved. The marriage formulas are to the effect that between the husband and the wife, there is complete union; the bone of the husband is the bone of the wife; the blood of the husband is the blood of the wife; the flesh of the husband is the flesh of the wife. The wife in this fusion, leaves her own *gotra* and takes that of her husband, thus making the fusion complete. Their union is fixed, unchanged and unchangeable as the position of the pole-star. It is with such *mantras* that marriage is solemnized among the Hindus. Such solemnisation precluded all possibilities of dissolution. Neither the husband nor the wife can dissolve marriage. The king has no power to order for such dissolution. That tie is as fixed as the pole-star."

[Pandit Satyendra Nath Sen.]

Now, I have almost finished, Sir. The Honourable the Mover said in his speech that the opinions of Hindu women have not been collected, and some of my friends are anxious to collect such opinions. I shall present this House with a short opinion of Hindu women. Honourable Members know that these women think much but speak little, and in one short sentence they have expressed their view. This is the opinion of the Hindu Mahila Samaj:

"The Hindu Mahila Samaj at a meeting held on the 9th instant resolved that it *cannot support* the Bill, 'Dissolution of Hindu marriages', by Sir Hari Singh Gour."

Sir, having read these opinions, I may cut short my own remarks on the "grounds" which are shrouded in mystery, and I think they have been kept vague on purpose.

As to the reference to leprosy, we are reminded of the story of the leper sage Mandavya,—we know how he was served by his faithful wife who tried to please her husband in all possible ways. And I ask the Honourable the Mover if a faithful wife is not to stand by the side of her husband in times of need, who else will do that? If he advises that he should be taken to the hospital so that he may be attended by a nurse and if a nurse can attend on him, why not his faithful wife? Of course, we may take exception to a leper procreating at such a stage, but, Sir, sexual pleasure is not the only ideal of marriage, that is not the only object; there are other objects and other utilities as well. This is what Ramchandra described about the utilities of marriage. He refers to Sita Devi and says:

"Káryeshu mantri Karaneshu dási.
Dharmeshu patni kshmaya dharitri
Sneheshu mátá shayaneshu rámá
Range sakhi Lakshmana sá priyá me."

—In counsel she is my counsellor, in action she is my servant, in religious observances she is my partner, in affection she is like unto my mother, and in amusement she is my companion.

Mr. B. V. Jadhav: Not amusement—it is a mistranslation.

Pandit Satyendra Nath Sen: I now proceed to give the true Sastraic view. Marriage is not a contract to the Hindus, but a sacrament, a *samskar*. I may point out to Honourable Members that the two words "samskar" and "sacrament" come from the same origin. They are derived from the root *kri* which means "to do", and the prefix *sam* means perfection or purification—the dental *sa* comes in, in the sense of purification or decoration, by a special rule of grammar. What is the exact nature of these *samskaras*? They are purificatory ceremonies. These purificatory ceremonies have effect not only in this life but also in the life to come. They have been described as

"Pavanah pritya cheha cha."

They are purificatory not only in this world, but also in the next world, and the effects of these ceremonies cannot be dissolved in this world because they will survive even after death. Marriage mantras also, which have been referred to by the late Mahamahopadhyaya Haraprasad Shastri, in his opinion,—make it clear that there is a unification of the two bodies

and of the two souls of the husband and the wife. The husband is made to utter this mantra:

"Yadetad hridayam tava tadastu hridayam mama
Yadidam hridayam mama tadastu hridayam tava."

"Let your heart be mine, and let mine be yours." So, there is unification of everything; in fact, the wife takes the *gotra* of her husband on the completion of what is called the *chathurthihoma*. (*An Honourable Member:* "What about people having more wives?") It does not arise now. I shall deal with it if it comes before the House.

Mr. President: I should like to ask the Honourable Member how long he is likely to take to finish his speech.

Pandit Satyendra Nath Sen: About 15 minutes.

Mr. Gaya Prasad Singh: Half an hour.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I think the House will prefer to adjourn at this stage. But before adjourning the House, I should like to consult Honourable Members. The programme which has been supplied to them shows that Friday and Saturday are off days, while on Monday or Tuesday we will have to meet according to the day on which the Ramzan Id falls. Honourable Members are aware that the day of the Ramzan Id remains uncertain till the last moment, and therefore the Chair has been considering in consultation with party leaders whether some arrangement could not be made by which that uncertainty may be removed and Honourable Members may know definitely when they will have to meet again. It has been suggested that the House should meet on Saturday next when according to the original programme it was not intended to meet and that both Monday and Tuesday next should be off days. If the House accepts that suggestion (*Honourable Members:* "Yes")—I take it that the House does so. In that case I will adjourn the House till Saturday next, and then to Wednesday. That being agreed to, I will call upon the Leader of the House in the light of this arrangement to announce the programme for the next week.

STATEMENT OF BUSINESS.

The Honourable Sir George Rainy (Leader of the House): I desire to make a statement, Sir, with regard to the probable course of
5 P.M. Government business in the eight days beginning Saturday the 6th. On Saturday the 6th we shall put down business in the following order:

(1) A motion for leave to introduce a Bill to extend the operation of the Wheat Import Duty Act, 1931;

(2) Motions to refer to Select Committee the three Tariff Bills which I introduced yesterday;

(3) A motion to refer to Select Committee the Bill to provide for the administration and discipline of the Indian Air Force introduced by Mr. Mackworth Young yesterday.

It is desirable, as the House will realise, that these motions should be made as soon as possible as the latter part of the session is likely to be

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extremely congested and it is desirable that all these Bills should be passed before the end of the session. The next day for Government business is Friday the 12th, on which date we propose to put down any business not concluded on Saturday the 6th and to resume the discussion of the motion to refer to Select Committee the Bill to supplement the Bengal Criminal Law Amendment Act, which was left unfinished yesterday. Thereafter the Honourable Sir George Schuster will move to take into consideration, and, if that motion is accepted, to pass the Bill which he introduced yesterday to amend the Indian Finance Supplementary and Extending Act, 1931; and I propose to move a similar motion in respect of the Bill to extend the operation of the Wheat Import Duty Act, 1931, if the House permits me to introduce it on Saturday. This will be followed by the motion to take into consideration the Partnership Bill as reported by Select Committee. Honourable Members are already aware that Wednesday the 10th has been allotted for non-official Resolutions and Saturday the 13th has been allotted for non-official Bills.

The Assembly then adjourned till Eleven of the Clock on Saturday, the 6th February, 1932.

LEGISLATIVE ASSEMBLY.

Saturday, 6th February, 1932.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President in the Chair.

THE WHEAT IMPORT DUTY (EXTENDING) BILL.

The Honourable Sir George Rainy (Member for Commerce and Railways): Sir, I beg to move for leave to introduce a Bill to extend the operation of the Wheat (Import Duty) Act, 1931. This is a very short Bill which does not require much explanation. The operative provisions are merely these, that in the Act to be amended, for the figures "1932" the figures "1933" should be substituted, *i.e.*, it extends the operation of the Act by one year. The other operative provision repeals a section of the original Act the force of which is now expended. I move.

The motion was adopted.

The Honourable Sir George Rainy: Sir, I introduce the Bill.

THE SUGAR INDUSTRY (PROTECTION) BILL.

The Honourable Sir George Rainy (Member for Commerce and Railways): Sir, I move:

"That the Bill to provide for the fostering and development of the sugar industry in British India be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Mr. B. Das, Lala Hari Raj Swarup, Sirdar Harbans Singh Brar, Mr. S. C. Sen, Mr. B. V. Jadhav, Mr. S. C. Mitra, Seth Haji Abdoola Haroon, Mr. Muhammad Azhar Ali, Kunwar Hajee Ismail Ali Khan, Mr. G. Morgan, Mr. L. V. Heathcote, Sir Edgar Wood, Mr. A. H. Ghuznavi Mr. R. S. Sarma and the Mover, with instructions to report on or before the 15th February, 1932, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The House will have observed from an examination of the agenda that I have to deal with a somewhat varied range of commodities moving on from wheat to sugar, and from sugar to the less sympathetic topic of wire and wire nails and ending in paper. The entertainment I have to offer the House will therefore be what the Scotchman said of the sheep's head "fine confused feeding". As to sugar, I do not think it will be necessary for me to make a long speech explaining the reasons why Government have placed this measure before this House. The proposals of the Tariff Board have now been before the country, and before the House for more than ten months; and from what I have been able to gather of the trend of public opinion both in this House and elsewhere, I think the proposals have generally been accepted as right and as proposals to which the Legislature should give the force of law.

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There is, however, one aspect of the case to which I should wish to direct attention. Usually when proposals for protective duties are placed before the Legislature we proceed on the basis that the Tariff Board after inquiry have found that the conditions laid down by the Fiscal Commission have been fully satisfied. Now, in this particular case, I doubt whether it can be said, in spite of the arguments that the Tariff Board have adduced, that at any rate one of the conditions laid down by the Fiscal Commission is entirely satisfied. I do not myself feel that we should be justified in saying that it is reasonably certain that in India generally sugar will some day be produced as cheaply as it is produced in Java and in Cuba. That, I think, is very doubtful. The reason which induced the Government nevertheless, in spite of this fact, to bring forward this measure lies in this, that they feel that it is of such national importance to agriculturists in many parts of India that sugar cultivation should be developed and should attain much greater magnitude than it has yet attained that other considerations have to give way. I believe from all I have read, both from what has appeared in the press and what I have heard from others, that this is the general opinion in the country, and that the public generally regard the development of sugar production as of real national importance. It is on that ground that the Government of India have put forward this measure and ask the House to give it its approval and support.

As regards the actual details of the measure, as Honourable Members are aware, the Tariff Board proposed that the duty should be fixed at the rate of Rs. 7-4-0 a cwt. for the next seven years period of protection. That rate of duty was actually imposed in March last, not as a protective duty at that time, but as a revenue duty; and so far as that is concerned, the present Bill makes no change; it merely converts the revenue duty into a protective duty. The House are also aware that in the supplementary and extending Finance Bill passed two or three months ago, a surcharge was imposed on the duty imposed in March. That is left entirely unchanged so far as this Bill is concerned; that is to say, the surcharge will continue to be levied up till 31st March, 1933, in accordance with the legislation already passed. But what this Bill does do is that for the next seven years it fixes the duty, apart from surcharges, at Rs. 7-4-0 a cwt. Then it will not be liable to revision in a downward direction at any rate merely according to financial exigencies. What we propose to do is to commit the Legislature of the country to the adoption of a policy of protection for sugar. Members will remember that the Tariff Board drew pointed attention to the fact that the development and establishment of the sugar industry in India would be a matter which would require a considerable period of time. It is not an industry of which you can expect the full development until after the lapse of a good many years, and it was for that reason that they put forward proposals by which the duty was to be fixed at Rs. 7-4-0 a cwt. for a period of seven years, and thereafter for a further period of eight years it was to be fixed at Rs. 6-4-0 a cwt. In the Bill, as we have placed it before the House, we have adopted the Tariff Board's proposal for the first seven years but we have said nothing about the subsequent period of eight years. We have, however, provided that, before the termination of the seven year period, there shall be statutory inquiry in order to determine what amount of protection will then be needed. I should like to make it quite plain that the Government of India

do not in any way differ from the Tariff Board as to the necessity of a long period before the industry is firmly and completely established. The Tariff Board is, I think, quite right on that point, and Government do not in any way differ from the conclusion of the Tariff Board that at the end of the seven years the continuance of the protection will still be necessary. The reason why they have varied the proposals of the Tariff Board in this respect is merely this that at present economic conditions are so disturbed that it seems idle to attempt to look ahead for so long a period as 15 years and to say what rate of duty will be appropriate during the latter part of that period. Honourable Members will of course understand what I am referring to when I speak of the disturbance of economic conditions—namely, the profound trade depression and also the disturbance of currencies and exchanges all over the world. For that reason the Government of India thought it better to adopt the plan embodied in the Bill, but I desire to make it plain that in the view of the Government of India the continuance of protection for 15 years at least will almost certainly be necessary, and I believe that the House will agree with them in that view.

Now, Sir, there are only one or two things more that I wish to say in explanation of this Bill. There is one small change in the rates of duty, and it is this. At present the cheaper kinds of sugar are not subject to the specific duty, but to a revenue duty of 25 per cent., which with the surcharge becomes 31¼ per cent. It is proposed by the Tariff Board,—and Government have accepted the recommendation,—that that cheaper kind of sugar—below 8 Dutch standard I think is the test—should also become subject to the protective duty. That, in substance, I think, is the only change of importance or the only change we have made as regards the actual rates of duty.

There are one or two minor or subsidiary proposals of the Tariff Board to which perhaps I might refer. We have included in the Bill a provision,—it will be found in clause 4 of the Bill,—taking power to make rules requiring the owners of sugar factories in British India to make such returns relating to the production of sugar in their factories as the Governor General in Council may consider to be desirable. That is in accordance with the recommendation of the Tariff Board. We have not, however, included in the Bill another provision recommended by the Tariff Board, namely, taking power to make rules requiring the pasting of notices at factories showing the prices which the factory pays for sugarcane. I would like to explain—I know it is a matter to which Members of this House and a great many people outside attach importance,—that Government recognize that the benefit of this measure should not go entirely to the factory owner but that the cultivator should get his fair share. The reason why we did not include the provision recommended by the Tariff Board was merely this, that we doubted whether practically it would have the effect intended. We all of us realise that it is of very great importance, especially considering the fact that on the interests of the cultivator the whole measure is based, that such steps as are possible should be taken to see that the agriculturist gets a fair price for the sugarcane that he grows. It is not altogether easy, however, to secure this result or to devise legislative provisions for securing it. Possibly in the future it will be a matter on which there might be legislation in Provincial Councils, because in a matter of that kind it is very difficult for the Government of India, operating at long range, to take effective steps. But I should like to assure

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the House that Government by no means ignore this aspect of the matter, and if and when satisfactory measures are devised, they will always be ready to take them into consideration. That, Sir, I think, concludes what I need say in justification of this measure, and I hope it will commend itself to the House.

Mr. A. Das (Benares and Gorakhpur Divisions: Non-Muhammadan Rural): Sir, in supporting this motion to refer the Bill to a Select Committee, I wish to invite the attention of the Honourable the Mover to the fact that there should be some protection given to the cane grower. Gorakhpur is a very important centre in which at least 4 or 5 sugar factories have been working for the last 10 or 15 years, and about 10 new factories are being fitted up this year. There the cane growers are put to very considerable inconvenience, because they have got no organization of their own, with the result that they have to suffer a number of inconveniences in the low price being offered, in the cane carts being allowed to stand in the night and sometimes for over two nights without being unloaded. These are very important factors which Government should consider in affording protection to the manufacturers. I do think it is absolutely necessary in the interests of the cane growers, whose interests are not being looked after at all by any party, that something should be done so that they might secure a fair price for sugar-cane. Otherwise, the result would be that those factories which have their own cane cultivation would, of course, prosper, but the poor cane growers who bring their own cane from a distance of 10 or 15 miles, are always at a disadvantage. I therefore hope that the Honourable the Mover, who has already assured the House, will do something to ameliorate their condition.

The Honourable Sir George Rainy: In reply to what has fallen from the last speaker, I only wish to say this, that as I have already explained, we do attach importance to that aspect of the question and that we are quite prepared to consider measures which are likely to prove satisfactory in practice, designed for the object he has in view. The difficulty is that it is not very easy to find effective measures, and as I have said, I think sooner or later it will probably rest with the Local Governments to take necessary action. In that case the Government of India will of course always be ready in so far as their co-operation is required to consider the matter very sympathetically.

Mr. A. Das: May I ask if the Tariff Board has not suggested a minimum price which the manufacturers have to pay in respect of cane?

The Honourable Sir George Rainy: It is a very difficult thing to enforce a minimum.

Mr. President: The question which I have to put is:

"That the Bill to provide for the fostering and development of the sugar industry in British India be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Mr. B. Das, Lala Hari Raj Swarup, Sirdar Harbans Singh Brar, Mr. S. C. Sen, Mr. B. V. Jadhav, Mr. S. C. Mitra, Seth Haji Abdoola Haroon, Mr. Muhammad Azhar Ali, Kunwar Hajee Ismail Ali Khan, Mr. G. Morgan, Mr. L. V. Heathcote, Sir Edgar Wood, Mr. A. H. Ghuznavi Mr. R. S. Sarma and the Mover, with instructions to report on or before the 15th February, 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.

THE WIRE AND WIRE NAIL INDUSTRY (PROTECTION) BILL.

The Honourable Sir George Rainy (Member for Commerce and Railways): Sir, I move:

"That the Bill to provide for the fostering and development of the wire and wire nail industry in British India be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Mr. B. Das, Lala Hari Raj Swarup, Sirdar Harbans Singh Brar, Mr. S. C. Sen, Mr. B. V. Jadhav, Mr. S. C. Mitra, Seth Haji Abdoolla Haroon, Mr. Muhammad Azhar Ali, Kunwar Hajee Ismail Ali Khan, Mr. G. Morgan, Mr. L. V. Heathcote, Sir Edgar Wood, Mr. A. H. Ghuznavi, Mr. R. S. Sarma, and the Mover, with instructions to report on or before the 15th February, 1932, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

This proposal which we are placing before the House is something a little different from what perhaps I might call full-fledged protection, and perhaps the best way of explaining it is to go back a little into the previous history of the subject, although I do not propose to go into it in any great detail.

When the Steel Industry Protection Bill was passed in 1924, it included protective duties on wire and wire nails, but subsequently—I think in the year 1926 or possibly in 1925—that duty was removed because it was found on enquiry that the protection given was benefiting no one. The factory which had been producing wire and wire nails had been unable to continue and had gone into liquidation, and the Tata Iron and Steel Company had found themselves unable to produce wire rod and they also therefore received no benefit from any increase in their output of steel. Nevertheless, the fact remains that the general decision of this House in 1924 to protect the steel industry must be held, I think, to cover the case of wire and wire nails to this extent that wire and wire nails are products which form a subsidiary branch of the steel industry—a branch to which protective duties would naturally be extended provided of course it is established after full enquiry that the production can be economically and efficiently carried on, and also that there is a sufficient market in India for the products of the industry to ensure economical production. Now, Sir, a firm in India purchased the works which originally belonged to the Indian Steel Wire Products, Limited, and for the past two or three years have been carrying on, under certain difficulties, the production of wire and wire nails. But wire rod, which is the raw material out of which the wire is made, is not yet produced in India, and therefore they have had to use imported wire rod. Government have done what they could to assist them by allowing them to import their rod free of duty, but at present, as the Tariff Board have found, the conditions which justify the re-imposition of a protective duty in the full sense have not yet come into existence. The two conditions are, (1) that the manufacture of wire and wire nails should be renewed,—and that has been done; and (2) that the wire and wire nails should be made from steel manufactured in India, and this is not yet satisfied, because wire rod is not made in India and no one is yet equipped to make it. That is an important point because the whole claim of the manufacture of wire and wire nails to protection inevitably rests on its ability to make use of Indian steel. If it were to use for an unlimited period imported steel, then it would be cut off from the main stem of the national industry and becomes so to speak a side show with no particular claim to national assistance.

[Sir George Rainy.]

The firm at Jamshedpur, of which I have spoken, contemplate the purchase of a mill which would be capable of rolling wire rod from steel billets supplied by the Tata Iron and Steel Company, but the difficulty with which they are faced is this, that unless they receive some temporary assistance, they will find it almost impossible to raise the capital required for the purchase of the mill, and also they will find it very difficult—perhaps impossible—to continue the manufacture of wire and wire nails. What the Tariff Board have proposed is that they should receive temporary assistance in the form of a duty of Rs. 45 a ton on imported wire and wire nails and that in the course of the statutory enquiry to be held in 1933 their claim to protection in the full sense should be further examined.

That, Sir, is the history of the proposal which we are placing before the House. The Tariff Board in making their recommendations said a good deal about what they considered to be the equitable claims of the firm in Jamshedpur to receive this assistance in view of the history of what had happened in the past and of their right, as the Board consider, to receive assistance in the form of some measure of protection. It was made plain in the Resolution with which the Tariff Board Report was published that Government did not altogether accept that view. I am not going into the history of it, for it is a rather complicated and tangled matter. Nor indeed am I called upon to do so, but it is right that I should make it plain to the House that we are not asking their support to this measure on the ground of equitable claims on the part of a particular firm, but we are asking them to support it on the general ground, which is the true ground on which these proposals should be supported, namely, that it is in the national interest that this assistance should be given. I do feel, Mr. President, that it is of great importance to the welfare of the steel industry as a whole in British India that outlets for steel made in India should be multiplied. As Honourable Members are aware, there has been a great falling off in the demand for rails by the Indian railways in the last two or three years owing to circumstances completely beyond the control of the railway administration. That being so, it is of great importance that other outlets for Indian steel should be found and if this measure is passed into law, it is likely that, within a year or 18 months time, the Tata Iron and Steel Company will be selling their steel billets to the wire manufacturing company and the latter company from these billets will roll wire rod, and from the wire rod will manufacture wire and wire nails.

By passing this measure, the House will not commit itself finally to the continuance of the protection to the manufacture of wire and wire nails indefinitely. It will be necessary, before the claim is finally admitted, that the matter should be fully examined by the Tariff Board in the course of the statutory inquiry in 1933, or possibly, since the time before that inquiry will commence is not very long, they may report at the end of their inquiry that even then it is not fully possible to determine the claims of the manufacture of wire and wire nails or to assess the amount of protection that may be needed. At one time I was inclined to recommend that the temporary assistance should be given for three years, that is to say, up to 31st March, 1935, instead of up to the 31st March, 1934. On the whole, however, it seemed better, since we could not exclude wire and wire nails from the scope of the Tariff Board inquiry in 1933, that the period should be fixed at two years, and then all the protective duties

on steel would run out on the same date. It is possible, however, as I have said, that the temporary assistance may be eventually found to be necessary to be given for a year or two longer, before protection is finally given. In any case it is essential that the Tariff Board should fully examine the question, whether, conditions being what they are in India, the manufacture of wire and wire nails and also the manufacture of wire rod can be carried on economically and efficiently. This question is somewhat larger than may appear at first sight because, in order to get low costs and cheap production in the mill in which the wire rod will be produced, it will be necessary to produce other products also. This is an aspect of the case that has not been very fully discussed in the Tariff Board's Report, but it appears from letters from the applicant firm in the possession of Government that what they contemplate is a mill which will be capable of rolling hoops and strips as well as bars of certain small sizes, and when the Tariff Board come to make their final inquiry, they will have to consider not only what duties ought to be imposed on wire and wire nails, but in all probability also what duties ought to be imposed on these other products. They will all however be the ordinary products of the steel industry. I have said so much, on this point, Mr. President, in order to make it clear that I am not asking the House to commit itself to more than this—that temporary assistance should be given in order that the possibility of manufacturing wire and wire nails and certain other products cheaply and efficiently in India may be fully tested, and that it will be necessary for the firm after two, three or four years as may be found necessary to establish their claim after the manufacture of wire rod in India has actually been established. I hope I have succeeded in making it plain to the House what the Government are asking them to do, and perhaps I need not add to what I have said.

Mr. B. Das (Orissa Division: Non-Muhammadan): The Honourable the Leader of the House, who comes from the Province of Bihar and Orissa and who was the first Chairman of the Tariff Board, has a soft corner in his heart for the key industry in Jamshedpur and other industries that may spring up there. You, Sir, as the Chairman of the Fiscal Commission and your colleagues wrote an admirable report, but those industrialists who sat on that Committee, including yourself, never thought at the time that Government would come up before this House to protect every little industry that might spring up and ask for money at the expense of the tax-payers of India. My view of the Tariff Board's Report on the wire and wire nail industry is admirably summed up in a little note in the *Statesman*, which is published today, and I am glad to be able to agree with my friend Mr. Moore at least on this occasion. It says:

"The Board admit that there is much that is exceedingly speculative in the premises of their argument but finally decide to recommend the restoration of the protective duty on the ground that money has been invested in the industry relying on assurances given in the past by Government and the Legislature. The arguments on this issue to be found in the eleventh paragraph of the Board's report are not convincing."

Sir, I quite agree with the *Statesman* that the Board is backing a speculative proposition in this matter. Everybody knows that this wire-nail factory at Jamshedpur was promoted by the Bombay industrialists, who just squandered away Rs. 21 lakhs and more, and in the end took debentures from the Government of Bihar and Orissa to the tune of Rs. 5 lakhs. At last the Government of Bihar and Orissa pressed for the

[Mr. B. Das.]

money they advanced to the Bombay industrialists and the stock was sold away as a scrap heap for the sum of Rs. 3 lakhs to Mr. Inder Singh. And now the latter gentleman comes forward to my Honourable friend, Sir George Rainy, who has naturally a soft spot for Jamshedpur, urging that he has a claim on the Honourable the Commerce Member. He has purchased the stock for 3 lakhs. The total sum which he has so far invested is in the neighbourhood of 4 lakhs. Now this House and the Government are asked to give that protection to a speculative venture. Thereafter, as the Honourable the Commerce Member said, we may take it he will come up in 1934 to us for protection for another period of 7 or 8 years. Sir, when we gave protection to this Tata Steel Industry—which was described by the predecessor of the Honourable Sir George Rainy as a key industry and which this side of the House recognized as a key industry—we never expected that every little subsidiary industry that would spring forth from that key industry would need protection, so that the masses would groan under the present system of taxation. I find that when the General Manager of the Tata Iron and Steel Company gave evidence, he wanted to get for the steel ingots for this wire-nail factory the same concession as was claimed for the tinplate industry. He drew a contract between the Tata Steel Company and the Tin Plate Company—a contract which as Sir George Rainy knows is a blot in the history of contracts between two things, and for which the tax-payer is paying through his nose. Under the system of protection that we conceived—and I was a Member of this House in 1924—we never dreamt that the steel industry would come forward seeking protection in 1934 even: and if the Tatas squandered crores of rupees at Jamshedpur, the contract between the Tin Plate Company and the Tata Steel Company has added to that burden of the management and also to the groaning burden of the tax-payer. Sir, if I happen to be a Member of this House in 1934, I think I and those who will be here will then have to consider whether the system of patronage should continue to be granted to certain capitalists who have failed in their management and who I think simply live under State patronage. I do not mind if the Government have surplus money to give away to any industry, but everybody knows that the Government are going through a period of stress and strain financially, and when Government take advantage of the demand of certain industries to get protection, my Honourable friend, the Finance Member, of course reaps the advantage at the cost of millions and millions of consumers.

My Honourable friend, the Leader of the House, while moving the Resolution for protection to galvanized iron sheets last year, agreed with my friend, Mr. Deputy President, that he would have had given a bounty to that industry, but he pleaded then on behalf of the Honourable the Finance Member that he was hard put to it and needed the crore of rupees that would come in this way. Sir, everybody knows that the House did not like to agree to three years' protection for the galvanized steel industry, but gave it for one year subject to the approval every year of this House. If the Honourable the Commerce Member feels that by giving this protection to this industry, which has no basis to make the claim for that protection, he would encourage the Honourable the Finance Member to come up and ask for fresh taxation, we can understand the position. Some of us, Sir, suggested various systems of taxation which I hope the Honourable the Finance Member would, under the stress and strain of economic distress, bring up on the floor of this House, we would accord

sanction to such proposals some of which we suggested in the last session. But I do not like the Government idea of collecting a little more money for the purpose of patronising industries which are no industries at all. In this case the machinery was bought up at scrap price and the Tariff Board have not gone into the details of the cost of depreciation. What is the real cost of this machinery? 25 lakhs. The Tariff Board themselves are charging depreciation at 4 lakhs on present value. That means this particular firm will get a monopoly for wire-nail manufacture. I know when I was doing business at Bombay, there were small firms who were manufacturing wire-nail. I find the Tariff Board has not inquired into that aspect of the thing, that there are small firms in the bye-lanes of Bombay where wire-nails are manufactured. Now these firms have not come forward for protection, and yet they are manufacturing and selling their products and I am sure they are making a profit out of it. But, Sir, how long will this pampering go on? Sir, we have pampered the Tata Iron and Steel Company like a dog, and when we pamper a dog or other animal too much, we know it grows fat and becomes lazy and sluggard; and that is happening to certain industries that make no efforts to reduce their cost of production or to manufacture at market prices. Sir, my advice to the Honourable the Commerce Member is that he should continue the present concession in the matter of the importation of wire, and thereby let the wire nail industry feel that it is doing something, and I think the Honourable the Commerce Member should refer the whole subject back to the Tariff Board. Let them find out whether at the original capital cost the industry can stand on its own legs. If the industry cannot stand on its own legs, it is no use pampering it to enable it to have a monopoly—in addition to the advantage which the party concerned got out of the failure of certain Bombay industrialists. I do not like the idea of this perpetual monopoly being given to this firm. So for the present, Sir, I am agreeable that this firm should only receive the concession that it is receiving and should not receive anything further.

Mr. H. P. Mody (Bombay Millowners' Association: Indian Commerce): Sir, I am not a specialist in wire or wire nail manufacture, and I have no desire to inflict myself on the House for the excellent reason that I know very little about the subject. But I rise to take strong exception to what I might call the crude economics of my Honourable friend Mr. B. Das. I say so with great respect to my Honourable friend to whom it is always a great pleasure to listen. But when my Honourable friend inveighs against protection in general and talks about the interests of the consumer, I feel that it is necessary for me to try, at any rate, to set him right. Sir, if my Honourable friend the Commerce Member has a soft heart for the Tata Steel Industry, I say it does credit to his heart, and the softer the heart he has for industries like that the greater the good that he will do to the country. I would ask my Honourable friend Mr. B. Das whether he thinks that India can develop and can function as self-governing State some day without a great and quick expansion of her industries. I do not know, Sir, whether I would be in order in digressing from the subject, but the remarks that I am going to make have been called for by what my Honourable friend has said. At the present moment, something like 70 to 80 per cent. of the population of this country subsists on agriculture. Even in the United States, where there is a very highly developed scientific system of agriculture, the proportion of the population which subsists on it is not more than 30 per cent. So long as India's main dependence is on agriculture and so long as Indian agriculture is in the primitive stage in

[Mr. H. P. Mody.]

which it is at present, so long will the country continue to live on a bare margin of subsistence. The position will be very greatly aggravated in the next few years when India receives a constitution which places her in the front rank of the nations of the world. It will be impossible for that constitution to function; it will be impossible for India to shoulder the burden of the greatly enlarged social and other services which she will have to have if she is to be a civilized Power—I say it will be impossible for India to achieve all this unless there is a rapid expansion of her industries, and I should have thought that my Honourable friend Mr. Das would be the first to congratulate the Government of India on their increasing recognition of the place of industries in this country. For years together we have criticised the Government of India for their neglect of Indian industries, and that criticism was largely justified. I am not sure that we shall not apply that criticism on occasions even now to the Government of India. But I do see that in the last three or four years a very creditable attempt has been made on the part of the Government of India, on the recommendations of the Tariff Board, to give such assistance to such Indian industries as have made out a case for protection. When this is the case, I find it difficult to believe that any Honourable Member in this House can get up in his seat and inveigh against the Government of India for their practical recognition of the place of Indian industries.

Mr. B. Das: Why do not then the Government of India buy all articles manufactured in India for their own consumption? Have you ever tried that?

Mr. H. P. Mody: That would take me into a digression which I want to avoid. I may however tell my Honourable friend that various commercial organisations are keeping a very close watch upon the Government of India's purchases of their requirements both in India and in England. But that is not the issue to-day. The issue to-day is that an industry, for which a case has been made out by a recognised body of experts, has come forward before the Assembly for protection, and my Honourable friend has made an attack on the Government of India for giving effect to the recommendations of the body to whom the investigation of the claims of that industry was committed. I take strong exception to my Honourable friend's remarks on this head. I hope that the Government of India will increasingly come forward with protective measures for the benefit of Indian industries, and to the extent that they will come forward will the country benefit. After all the burden on the consumer will be there, but it has been recognised in all countries which have gravitated more and more towards protection that the burden on the consumer is inevitable in the first instance, but that the country as a whole is bound to benefit by the development of industries and by the employment which these industries would give to the people of the country.

The Honourable Sir George Rainy: Sir, my Honourable friend Mr. Mody referred to me as having a soft heart, and said that it did me great credit. But I would draw my Honourable friend's attention to the fact that Mr. Das used the expression "soft spot" and not "soft heart". I am a little in doubt whether—he was of course much too courteous to say so—he did not think that the soft spot was to be found in the head rather than in the heart. However that may be, I am always indebted to my Honourable friend for his observations on the protective measures I bring

before the House. Although I do not very often agree with him—possibly owing to the soft spot—still it is important that, when any measure of protection is under discussion, the interests of the consumer should not be overlooked and that there should be Members who have these interests at heart. I do not propose, however, to answer my Honourable friend at any length. Possibly at some later stage of this Bill an opportunity may arise when it may be necessary to answer his arguments more fully. I would only say this with reference to what he said about "a speculative proposition" that, in moving my motion I expressly disclaimed resting the case for this Bill upon what the Tariff Board have said with regard to the equitable claims of a particular firm. Rightly or wrongly, I rest it on the broader ground of national interests. Secondly, when my Honourable friend speaks of the strain which protective measures place upon Government finances, I am happy to be able to inform him that, in the opinion of the Central Board of Revenue, this measure is likely to relieve that strain to the extent of four lakhs a year. Therefore, Sir, I do not think that that particular argument was a very strong one.

Mr. President: The question is:

"That the Bill to provide for the fostering and development of the wire and wire nail industry in British India be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Mr. B. Das, Lala Hari Raj Swarup, Sirdar Harbans Singh Brar, Mr. S. C. Sen, Mr. B. V. Jadhav, Mr. S. C. Mitra, Seth Haji Abdoola Haroon, Mr. Muhammad Azhar Ali, Kunwar Hajee Ismail Ali Khan, Mr. G. Morgan, Mr. L. V. Heathcote, Sir Edgar Wood, Mr. A. H. Ghuznavi, Mr. R. S. Sarma, and the Mover, with instructions to report on or before the 15th February, 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.

THE BAMBOO PAPER INDUSTRY (PROTECTION) BILL.

The Honourable Sir George Rainy (Member for Commerce and Railways): Sir, I move:

"That the Bill further to amend the law relating to the fostering and development of the bamboo paper industry in British India be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Mr. B. Das, Lala Hari Raj Swarup, Sirdar Harbans Singh Brar, Mr. S. C. Sen, Mr. B. V. Jadhav, Mr. S. C. Mitra, Seth Haji Abdoola Haroon, Mr. Muhammad Azhar Ali, Kunwar Hajee Ismail Ali Khan, Mr. G. Morgan, Mr. L. V. Heathcote, Sir Edgar Wood, Mr. A. H. Ghuznavi, Mr. R. S. Sarma and the Mover, with instructions to report on or before the 15th February, 1932, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

I hope that this is the last of the orations which I have to deliver today, and I now come to the subject of paper. That, like wire and wire nails, is a matter with which both in my present capacity as a Commerce Member and as the President of the Tariff Board I have had to deal before. As a result of the inquiry into the paper industry held in the years 1924-25, recommendations for the imposition of a protective duty were made by the Tariff Board and were accepted by the Government of India and also by the Legislature.

(At this stage Mr. President vacated the Chair which was taken by Mr. Deputy President.)

But at that time the Tariff Board held that further exploratory work was necessary before it could be established that the claim of the industry

[Sir George Rainy.]

to protection had been finally established. They pointed out that, on the basis of the *sabai* grass, if that was to be the principal material to be used in paper making, the claim of the industry was not established because the material was insufficient in the sense that it was not sufficient to provide for any considerable expansion of the industry. It was a perfectly good material and no doubt will continue to be used for certain kinds of paper so long as paper is made in India at all. But the Tariff Board found that, if development was to take place and the industry was to grow, it could only be done not on the basis of *sabai* grass but on the basis of bamboo. They held however that what was required at that stage was protection for a period in order that the possibilities of bamboo might be finally and fully explored and thereafter it would fall to the Legislature to determine whether the industry should be protected or not. The Tariff Board have examined the case very fully in the report which has been published, and the conclusion which they have come to is that the progress made during the last six years has been very substantial and satisfactory, and that they are now in a position to pronounce that the claim to protection has been made out. There are still certain difficulties which the paper mills find in dealing with the bamboo as a paper making material. These are mainly connected with crushing of the bamboo and the difficulties presented by the knots which are somewhat recalcitrant and difficult to crush. Nevertheless, the Board think, and Government have accepted their finding, that there can be no doubt that these difficulties will be overcome, and that the enormous supply of bamboo which India possesses provides a basis upon which a really important industry can grow up, and that protection should now be fully extended to the industry. That, Sir, is the substance of the case I have to present.

12 NOON.

It is satisfactory that in many respects, the results which the Tariff Board found in their enquiry last year were a distinct improvement upon what the Board found in their earlier enquiry. There has been an important reduction in the cost of bamboo delivered at the mills, and that is obviously a very important point. There have been distinct reductions in the cost of production in the mill itself in such matters as chemicals. There have again been very distinct reductions in the cost of fuel and power owing to the improved equipment which has been installed in certain mills, and generally speaking the cost of production has come down to a remarkable extent. Now what the Board has proposed is this, that the same rate of duty which has been in force since September 1925 should remain in force for another period of seven years, that duty being Rs. 140 a ton or one anna a lb. But in addition the Board have made another proposal, namely, that a protective duty should be imposed upon imported wood pulp. During the $6\frac{1}{2}$ years for which the protective duty has been in force there has been a good deal of criticism of the paper mills on the ground that they were not making sufficient progress with the use of Indian materials, and that their increased output of paper was due very largely not to the use of bamboo or *sabai* grass, but to the use of imported wood pulp. That question has been fully examined by the Board as was very necessary, because clearly in this case, as in all these cases of protection, what is desired is the fullest possible utilisation of Indian materials. What the Board find is—I quote from the Government Resolution—"that so far from the extended use of the imported pulp having prevented or retarded the experimental work on bamboo, the increased output of paper at a lower cost of

production which has been rendered possible very largely by a greater use of cheap imported pulp has enabled the Indian mills to provide the necessary finance for their work on bamboo". I think that is a sufficient answer to the particular point made by the critics of the mills. But the Board feel, and Government fully accept their conclusion, that the period during which this extended use of imported pulp has been necessary and even beneficial has now come to an end, and that it is desirable that legislation should be passed which will include a definite stimulus to the Indian manufacturer to make the fullest possible use of the principal Indian material, that is bamboo. It is for this reason that the Board has proposed, and the Government have accepted their proposal, that a protective duty of Rs. 45 a ton should be imposed upon imported wood pulp. The criterion that the Board applied, in order to determine what the amount of duty should be, was the amount by which it would be necessary to increase the cost of wood pulp so that it would become cheaper to use bamboo pulp. That I think is clearly the right basis on which to proceed. Had the Board not put forward this proposal for the duty on imported wood pulp, then for protective purposes, so far as paper was concerned, it would have been quite possible to reduce the protective duty on paper by perhaps Rs. 20 a ton or some figure of that amount. The retention of the existing rate of duty is therefore closely connected with the proposed imposition of the duty on wood pulp. I may mention that this proposal for a duty on wood pulp was in fact part of the original proposals of the applicant firms themselves in 1923 or 1924, but at that time the Board, and the Government agreed with them, did not approve of the proposal. But since then circumstances have materially changed, and Government have no doubt that it is desirable, in the interest of the industry, that a definite stimulus should be applied so that a fuller use may be made of Indian materials.

There is another matter to which I wish to allude in connection with this Bill. As the protective duty at present stands, printing and writing paper are specified as the kinds of paper to which the protective duty applies, and other kinds of paper are subject only to the revenue duty. Now, in practice, the administration of the law has given rise to a great many difficulties, because it is not very easy to draw a line between printing paper and writing paper and other kinds of paper. Thus it appeared not very long ago, I am told, that a paper which had always been classed as wrapping paper was imported by the Government of Madras and they claimed it was printing paper and not wrapping paper because they proposed to print upon it. I give that as an example of the difficulties that occur from time to time. Government had hoped that the Tariff Board would find it possible in their report to deal fully with the matter, and to suggest a revised entry in the tariff schedule, which might at any rate alleviate these difficulties and perhaps remove some of them. The Tariff Board have not, however, found it possible to do this and Government have not found it altogether easy to decide how the matter should be dealt with. What the Board suggested was that, after this Bill had become law, Government should hold a conference with the representatives of the trade in order to find a satisfactory definition of the protected kinds of paper based upon trade usage. Now, when it comes to interpreting the provisions of the law, I do not think that a conference is a good way of arriving at an interpretation. A conference may be a perfectly good method of getting assistance as to what the law ought to be; but after having made the law it is not at all a good method to decide what the meaning of that law is, because clearly in the last resort it is only the courts of justice that can

[Sir George Rainy.]

decide what the law means. Government think the best plan to adopt would be this; it is suggested that instead of specifying the kinds of paper to be protected and leaving all other kinds of paper subject to the revenue duty, we should reverse the procedure and say that the protective duty will be applicable to all kinds of paper except those which are specified for exemption. When Government reached that conclusion they had then to decide whether they could embody that proposal in the Bill now before the House; and they came to the conclusion that this was not possible, mainly owing to considerations of time, because if the customs procedure is reversed in the manner I have described, great care is necessary if we are to avoid inadvertently imposing the higher protective duty on classes of paper which nobody wants to protect. It is reasonable in such circumstances that the trade, on the one hand, should have a full opportunity of representing that a particular class of paper ought not to be subject to the protective duty and conversely that the industry should have an opportunity of representing that any proposed exemption is not justified. It was suggested that perhaps the difficulty might be got over by giving a very large power of exemption to the Governor General in Council; but personally I felt that that was not a satisfactory method of procedure. It may be desirable that some power of exemption should be granted to the executive Government, but as far as possible before the Legislature is asked to adopt a change in the law, it is desirable that they should have placed before them clearly and distinctly the exemptions which can be foreseen to be necessary, and that the authority which authorises these exemptions from the protective duty should be the Legislature itself and not any other authority. Therefore what we propose to do is this. We propose in the present Bill to leave the definitions alone, and they will remain exactly the same as they are under the existing Act. But we propose that as soon as possible Government should publish the definition which they think might be substituted for the existing definition, and to this definition there would be attached a schedule of the proposed exemptions from the protective duty. The definition would be widely circulated both to the industry and to the trade and they would be invited to make their criticisms on it. Thereafter there will be discussion between Government on the one side and the representatives of the trade and the industry on the other, and if the plan proves to be a satisfactory one a Bill will be placed before the Assembly in the next session. I am sure that there is a real difficulty here to be dealt with, and I believe that the plan we propose to adopt is the best possible in the circumstances.

There is, I think, only one other matter to which I need refer and it is this. In the existing Act there is a provision by which what is commonly called newsprint is exempted from the protective duty. Now, for the purposes of the definition of newsprint what the Tariff Board found in 1924-25 was that it would be reasonable to exclude from the protective duty all paper containing not less than 70 per cent. of mechanical pulp. They pointed out, however, that it was not a simple matter to test the percentage of mechanical pulp which a paper contains, but they thought that within an error of say 5 per cent. accurate testing was possible. They therefore proposed, and the recommendation was accepted, that instead of saying 70 per cent. we should exempt all paper containing 65 per cent. of mechanical pulp in order to allow for the error in testing. That particular provision has given rise to a good deal of difficulty. As long as 65 per cent. is the figure in the Act, then what manufacturers

are inclined to do is to place an order for paper containing 65 per cent. of mechanical wood pulp and then when the question of testing comes up, and it is found that the paper contains less than 65 per cent., they claim a further allowance and say that, although the test shows that it only contains perhaps 62 or 63 per cent., they are nevertheless entitled to have the paper admitted at the revenue rate of duty. These difficulties have been found so great that Government came to the conclusion that the right course to follow was to put in the Act the figure of 70 per cent. instead of the figure 65 per cent., and to leave the margin of error whether in the process of manufacture or in the process of testing to be settled entirely by executive order. The way the matter will then arise will be this. When the figure of 70 per cent. is in the Act, the manufacturer, if he chooses to place an order for paper containing only 65 per cent. of mechanical pulp, will clearly have no one but himself to blame if things go wrong. But the customs authorities will be quite prepared to make all reasonable allowances both for differences arising in the process of manufacture, because it is not easy to make paper the constitution of which is absolutely uniform in every sample, and errors in the process of testing, and in the actual administration of the law there will be very little difference from the state of things existing at present. That is to say, paper containing about 65 per cent. of mechanical pulp—a little more or a little less—will still be exempted from the protective duty. The difference will be that the manufacturer, if he wishes to get in his paper at the lower rate, will have to place his order for a paper containing not less than 70 per cent. of mechanical pulp. If he does not do that, if he orders papers with a lower content of mechanical wood pulp, he will clearly put himself in the wrong. I wanted to explain that point, because I know that it is a matter in which the importers of paper and the users of paper in India are naturally interested. It is of course mainly a Select Committee matter, but I think this explanation was due to the House. Sir, I move.

Mr. Nabakumar Sing Dudhoria (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I would oppose this motion of the Honourable the Leader of the House, as I cannot accept some of the proposals embodied in the Government Resolution on the subject. My first objection is to the 7-year period, which is considered to be rather too long for a second instalment of the proposed protection in view of the impending constitutional changes. Next we must know beforehand the results of the proposed Conference with the representatives of the different interests to decide the proper definition of the classes of paper to be subjected to the protective duty. Then we must have a definite idea as to the extent to which the paper pulp section of the Forest Reserve Institute at Dehra Dun is in a position to develop with a view to undertake co-ordination of experimental work on bamboo. There is no knowing if that section of the Institute will not be closed down on the ground of financial stringency any moment. Lastly, we have to be perfectly satisfied as regards Government's decision, adverse to the Tariff Board's recommendation, to raise the percentage of wood pulp in printing paper from 65 to 75 in order to exempt it from protective duty. It is after those conditions are satisfied that we shall have an opportunity of speaking the last word on this subject.

From the Report supplied, Honourable Members have had an idea of the findings and recommendations of the Tariff Board on the subject and also of the views of the Government from the printed sheet accompanying it. Those two official documents present to them only one side of the

[Mr. Nabakumar Sing Dudhoria.]

picture. I shall place before them another account of the subject in order to show the other side of the picture.

In the memorandum which the Indian Journalists' Association submitted before the Tariff Board, they stated the following amongst other things:

"That the general book publication business is in a very bad way since the imposition of the protective tariff is apparent from the dearth of work in private presses all over the country but especially in Calcutta. During the four pre-protection years, the number of printing presses increased by 1,538, whereas during the four years after protection the increase is by 1,010 only. The publication of periodicals during the former period increased by 736, whereas during the latter period by 56 only. Books in English language 218 as against 95 and books in Vernacular and classical languages 4,540 as against 1,013. The whole business has now come to such a pass that unless the price of paper is cheapened it is sure to be ruined.

Of the school books the price has become so high that the poor students are feeling great difficulty in procuring their books.

The magazines and periodicals, which are probably the best source from which the general body of literates get inspiration for extending the field of their knowledge, could not reduce their prices since 1920 or reduce their rates of advertisements owing to the high cost they have to incur for their paper supply, although the price index of every other commodity has considerably gone down.

Since the war the interest of the literate people for all sorts of general literacy and scientific information has enormously increased and this cannot be satisfied owing to high price of magazines due to high cost of paper. The protection on paper has virtually become a tax on knowledge without any countervailing good to the country.

The protection of paper has besides become a severe tax on such traders who have to secure their trade through printed literature and catalogues.

Analysis of the heads of the Post Office receipts will also show how the reduction of trade through Post Office has affected the revenue of the Post Office and put the Postal Authorities in such an unprecedented difficulty."

Those facts enumerated above clearly show that the protective tariff on paper, during the six years, it has been in operation since its introduction in 1925, has caused undoubted loss to the country in revenue, in money and in education.

Next, Sir, the publishing and bookselling trades, on which the indigenous printing industry is wholly dependent, are faced with total extinction in Bengal and are passing through quite a critical stage in most other parts of the country. This fact was not sufficiently brought to light in the Journalists' Association's Memorandum. The total capital and labour investments of the bookselling and publishing trades in India far exceed that of her paper industry and they were in a flourishing condition without State aid, protection, or any other measure involving hardships on the poor people of this country being invoked for their benefit.

So far as to the cost. But the result has not justified the sacrifice either because the same Memorandum says:

"The recommendations of the Tariff Board for protective Tariff in 1925 and the consequent passing of the Bamboo Industry Protection Act were effected with the object of fostering and developing the Bamboo paper industry in India. The expectation of the growth of a local industry engendered by high promises made by the manufacturers of papers when application was first made for protection, and supported by a spirit of sacrifice on the part of the consumers for the growth of an Indian industry, has now entirely been falsified by the results."

Next, let us examine the amount of increase that has taken place in the production of bamboo pulp and in the consumption of indigenous raw

materials as a result of the protection. Let me read out to you what an authoritative leaflet has to say on this subject:

"The Titagarh Paper Mills, which are the biggest paper as also pulp manufacturers in this country, gives the following figures. In 1924-25 they consumed 18,791 tons of indigenous primary materials. In 1929-30 they consumed 15,553 tons of grass, 496 tons of bamboo, 289 tons of rags, 415 tons of hemp ropes, 2,106 tons of waste paper, that is, in total 18,856 tons, thus showing a positive decrease during the 5 years. Then in 1930-31 the consumption of bamboo increased suddenly to 5,526 tons and the total of all these indigenous primary materials rose to 24,606 tons, which is barely more than 3,000 tons over the total of 1924-25 which would give only 1,200 tons of air dry pulp. But during these years the consumption of wood pulp has increased from 6,725 tons in 1924-25 to 12,222 tons in 1928-29 and then this latter figure shows a decrease to 10,026 tons in 1930-31 which shows an increase of nearly 35 thousand tons of wood pulp."

I shall now turn to another important aspect of this subject. Let us see what the general practice of the other paper concerns is in this matter. This is what we get from another leaflet bearing on the subject as it is quite interesting:

"The sea-customs return reveals that in 1925, 11,788 tons of pulp was imported, whereas this was increased in 1929 to 24,310 tons, which again was reduced to 22,716 tons in 1930-31. This shows that the imported pulp is used by Indian mills to the tune of 11,000 tons over and above the import figure of 1925, showing unmistakeably that the Indian mills are taking advantage of protective tariff for manufacturing paper and no pulp. The Titagarh Paper Mills alone have been benefited to the extent of 75 lakhs of rupees owing solely to the additional protective duty over the usual revenue duty, but spent not even 17 lakhs of rupees in adding to their general machineries of which not even 2½ lakhs is exclusively for pulp making machineries.

The enormously high percentage of dividend the Indian mills are paying for some years and the clamour for an extension of protection on papers show that the Indian mills are more bent upon making profit for their shareholders than the development of the Bamboo pulp industry."

It may now be questioned how the consumers, the people who are making tremendous sacrifices so that the paper manufacturers may benefit, are being treated in the matter of sale and purchase of paper. The following extract culled from one of the leaflets bearing on the subject affords definite information on the subject:

"The Titagarh papers are sold in Calcutta at As. 3-6·23 ps. per lb. The same papers are sold in other up-country markets, such as Lahore and Lucknow, at As. 2-11 per lb., that is, at a price less than the Calcutta price by not less than 6 pies. They could have reduced the price at Calcutta, but if compared with the price of 1925, the reduction of Calcutta price is practically nil, inasmuch as the price in 1925 was As 3-6.46 per lb., and in 1930 it was As. 3-6.23 per lb. according to their own declaration. They have taken advantage of the protection, as we have seen above, not to sufficiently invest in new plants, nor in reducing the price of the paper, but on making unusual profit."

It has thus been demonstrated that better pulp would be made at a lower cost than the usual imported stuff from bamboo. But the mills, quite indifferent to public interest, are too busy making their own profits while the protection continues, and are least concerned to bother themselves about the development of the bamboo pulp industry—the pretext on which this protection at the expense of the country has been issued to them since 1925.

Sir, in view of the above telling facts which have not been sufficiently met or contradicted, it ill becomes us to commit ourselves to any proposal for protection to paper for another 7 years without a proper examination of all the pros. and cons. of the matter.

Mr. B. Das (Orissa Division: Non-Muhammadan): Sir, I support this Bill to the extent that it wishes to give protection to the paper pulp manufacturing industry, and I oppose that portion which proposes to continue the protective duty on paper up till 1939. I do it on the well-known principle, under which the Tata Iron and Steel Company got protection—namely, that the key industry must be protected. If the paper pulp industry thrives, then the paper manufacturers can produce paper without deriving the huge profit which goes to the extent of 40 per cent., as is mentioned in the present Tariff Board's report. Incidentally my Honourable friend Mr. Mody may take objection to my crude economics about paper industry. I would say I know where the shoe pinches. Mr. Mody, who is a manufacturer, would like to exploit the millions of the masses—not exploiting exactly, but he would like to thrive at the cost of the millions of people in India. His policy is not to live and let live. I may tell the Government and this House that in the present economic depression the country wants a respite. The country has given up all its purchases so to say, and just for the sake of enlightening my Honourable friend Mr. Mody I will tell him that the exports of India in 1931 amounted to Rs. 169 crores and the imports to Rs. 135 crores,—that is, from January to December. In 1929 it was Rs. 228 crores exports and 245 crores imports. Mr. Mody therefore knows that at present there is very little money in the market, people cannot afford to buy even the daily necessities. I do not want that a few industrialists should be pampered and should make a huge profit and then start a rate-war, as my Honourable friend Mr. Dudhoria has said, at the cost of millions and millions of consumers. By all means give protection to the paper pulp industry, and with that protection to raw material let them build up their paper manufacturing industry. This Tariff Board's report mentions somewhere that a rate-war started between the Calcutta manufacturers and the Punjab Paper Mill. The Calcutta manufacturers wanted to supply paper at less than three pies or more, and owing to that, the Punjab Paper Mill stopped its working. That shows that there is a good margin of profit and when they are able to make a profit to the extent of 40 per cent. why should the paper manufacturing industry get any protection? In this connection I will quote my Honourable friend Mr. Arthur Moore and I am very glad that last night with his glass on the table he wrote this very excellent editorial, under the heading "The Passion for the Bad". It admirably sums up my view on the protection to paper industry.

Mr. Arthur Moore: On a point of order, Sir. May I ask whether the Honourable Member is in order in attributing to me articles that he reads in the newspapers? (Laughter.)

Mr. B. Das: I was paying a compliment to my Honourable friend, but if he does not like it, I beg to be excused:

"They (meaning paper manufacturers) were given heavy protection on their manufactured products, and by drawing an increasing proportion of their raw material from abroad they could make large profits while not bothering to foster the making of Indian pulp. Actually, almost the whole of the additional paper made in the last six years has been made from imported raw material which is precisely what would have been expected from the fact that paper makers are men who have entered the business to make money and not philanthropists concerned to justify the fantastic theories of the Tariff Board."

I draw the attention of my Honourable friend Mr. Mody to the word "philanthropists". Why does he want millions and millions of people to be philanthropists to support a few investors like my Honourable friend Mr. Mody, Sir Hugh Cocke and others so that they can invest their

money, and demand protection from the State and the purchasers may pay high prices and the investors can draw huge dividends:

"Since the qualification for membership of a Tariff Board would appear to be a lack of vision as to the future and complete blindness to the economic progress of the past, men who are risking their money naturally do precisely the contrary to what the Board expects them to do."

The Tariff Board in 1925, of which my Honourable friend Sir George Rainy was the Chairman, recommended as follows in paragraph 131 of their report:

"But if the abundant supplies of bamboo are developed, there is a reasonable assurance that before long no protection, beyond what the present duties give, would be needed, and ground for hoping that in course of time, as the cost of wood pulp increases, the industry could dispense with protection altogether."

I want my Honourable friend Sir George Rainy to forget himself that he is the Leader of this House and to take back his memory to what was in his mind when he signed that report. Did he think it will be a matter of 7 years protection or 14 years? I know that when he wrote the Steel report in 1924-25 he had no idea of giving protection for seven years. It was in his report of 1926 that the idea dawned on him and then the Government came forward with the idea of giving relief for the period of seven years in the case of the Steel Protection Bill of 1927. I hold him to his own writing which is written in letters of gold in that book. What was the period he wanted to give? Why this softness to these paper manufacturers? Why give them another 7 years exploitation of the country when people have no money even to buy their ordinary daily letters?

I wish to draw the attention of this House to a very notable change in the attitude of the Government. In 1925 the External Capital Committee was appointed as a result of the opposition in the House. A report was produced. Government never accepted that report. Government said that they were no parties to that report and they never thought of bringing that report for discussion on the floor of this House. Now, because a certain passage suits the attitude of the Government they have referred to it in their Resolution on paper pulp. They said:

"The principle that companies already engaged in an industry are not subject to the conditions in question received clear statutory authority in the first Steel Industry (Protection) Act of 1924, section 5 of which regulated the grant of bounties, and it was reasserted in unmistakable language by the External Capital Committee in 1925."

I wish to hold my Honourable friend the Leader of the House and every Member of the Treasury Bench to the underlying principle described here in unmistakable language by the External Capital Committee. I accept this portion which has suited at present the intentions of the Government. That means that the Treasury Benches have accepted the majority report of the External Capital Committee and they will bring forward a Resolution on the floor of the House or issue a communiqué stating that they have accepted the majority recommendation of the External Capital Committee. Sir, very few of them were agitators. There were there Sir Basil Blackett, Sir Charles Innes, Mr. J. W. A. Bell, Dr. Dwarkanath Mitter, Mr. G. A. Natesan and Sir P. S. Sivaswami Aiyar. There was Sir Walter Willson. We know what he is. The only two that were against were Pandit Madan Mohan Malaviya and Mr. Vithalbai Patel and as I find also my friend Mr. T. C. Goswami. I do not ask my Honourable friend Sir George Rainy to accept the note of dissent by Pandit Madan Mohan Malaviya or Mr. T. C. Goswami but I ask him

[Mr. B. Das.]

to accept what his former colleagues Sir Basil Blackett and Sir Charles Innes put their signatures to. Any way it is a notable significance that Government has accepted things in that report which they threw into the waste paper basket for the last 8 years. Now, Sir, the next few sentences in the Government Resolution are very interesting:

"While therefore the Government of India consider that manufacturing concerns enjoying tariff protection should hold it incumbent upon themselves to take such steps as are reasonably practicable to ensure Indian participation in the industry concerned, they must dissent from the view that compulsory methods of bringing about this result, such as those suggested in paragraph 108 of the Board's report are justified by any declaration of policy which has been made by Government in the past."

The trouble is that Government has never declared any policy in the matter of the recommendations of the External Capital Committee to which I draw your attention. The majority of them were Government officials or pro-Government Members of this or the other House. I do hope that this House had always been of the definite opinion that when important concessions are given to private firms or companies they must render in return some national service. It was the least that could be expected that European capitalist firms owned and managed by Europeans should at least give a few Indians training in the particular industry for which they seek protection from Government. To enunciate two distinct principles side by side in the same Government communiqué surprises me most, and I hope that Government will revise their views and approve the principle underlying the External Capital Committee's report.

Sir, I do not wish to challenge a division on this point because I want to give protection to a portion of the suggestions of the Tariff Board. I hold my Honourable friend to his own words which he wrote in 1925 and I also want him to look at the distress of the masses. Do not pamper a few capitalists. My friend Mr. Mody is a capitalist and I am an industrialist. I believe in discriminating protection. Protection should be given not because the Government of India want more money to their exchequer but because a particular industry needs protection and protection does not mean always levying protection tariff. There are other methods, such as subsidies and bounties. Why don't you do that? If Government have no money to give bounties, levy that amount of tariff which will just suffice to give a certain subsidy or bounty to a particular industry. Thereby the millions of consumers will not groan as they are groaning today. The bounty will come from the additional discriminating protection tariff which the Government will levy not to the extent that they are demanding but just to cover the amount required. Incidentally I will draw the attention of Mr. Mody to this. He was profuse in his praise of the Tata Steel Company's management. (*Mr. H. P. Mody*: "When was it?") A few months before. Sir, when the engineering industries demand cheap pig iron from the Tata Steel Company, they say, "no, we will sell it at Rs. 67 a ton to you but we will sell it at Rs. 40 a ton in Japan and England, and today they and their allied industries seek protection. Is there any equity, Sir, is there any justice in this? We have read in the papers that the Tatas are underselling steel in the British market. Why then should they come up in 1934 to seek the protection of this House when moreover they starve every engineering industry because thereby they can derive a few lakhs more by selling pig iron at Rs. 67 a ton in India? I keep an open mind on the question of protection to the Tatas . . . . .

Mr. Deputy President: We are not now discussing protection to the Tatas.

Mr. B. Das: I am prepared to give protection to any industry if necessary and I remind my Honourable friend that we are on the verge of constitutional changes. That being so, why do you want to pamper these paper manufacturers (Laughter) and other private companies? Why do you want to commit this House and the country to giving this protection till 1939? Did not the Honourable Member himself write in his report of 1925 that the Indian Paper Pulp Company was expected to become a limited company shortly after? Sir, we see capitalists investing money and I have heard them described as engaged in the process of something like fattening pigs with a view to reaping high prices ultimately. So these capitalists are fattening, and when the concern gets properly fattened, they go to the share market and sell their shares at a very high premium. Is that or is that not the intention of the Indian Paper Pulp Company? Why is it that during the last seven years the party never made any offer to pay back the money? Sir, these are some of the very serious objections that are agitating this side of the House, and if the Honourable Member will see his way to accomplish merely this that the Indian paper pulp industry will be protected, this side of the House will agree, but it will never agree if a few private persons, over whom the Government have no hold, profiteer. Some of them even do not belong to this country. We should remember the recommendations of the Tariff Board in 1925 that companies should not be pampered indiscriminately with further protection at the cost of the consumer and the taxpayer.

Mr. Arthur Moore (Bengal: European): Sir, in the very brief Statement of Objects and Reasons, there is nothing to suggest that this Bill throws over an important recommendation of the Tariff Board and also that it changes the existing protective Act. The Honourable the Commerce Member has however given us his reasons this morning for these changes. I hope the Select Committee will take this question into their most careful consideration, and will revert to the existing Act and to the decision of the Tariff Board. The question is a very technical one as it concerns the definition, for the purpose of the Act, of "newsprint", and I do not propose to detain the House by going into the details. But I would add this, that there has been in recent years a very great development of the newspaper industry in this country. In Calcutta for example, I think that every daily newspaper printed in the English language is now printed on a modern rotary press. Now these fast rotary presses can only use a newsprint which is a soft absorbent paper, and it has to be made actually from pine pulp. Now the possibility of protection for that quality of paper simply does not arise. Newspapers must import their newsprint; there is no newsprint produced in this country which they could possibly use on those presses. Therefore, whatever tax is put on, they will have to pay it; they will have to import their paper, and I contend that this change is merely an attempt to get extra revenue under the guise of protection. The Honourable the Commerce Member said this morning that if anyone were to order paper with a minimum of 65 per cent. chemical content, he would deserve what he got; but, Sir why would he deserve what he got? He would be ordering newsprint, and newsprint which could not be produced in this country. Now the Honourable the Commerce Member and Leader of the House, I know, does not want to penalize the newspaper press unnecessarily, and he wishes us to understand that although they are altering the definition in the Act

[Mr. Arthur Moore.]

to raise the minimum from 65 to 70 per cent. of mechanical content, the case of newspapers will be considered and dealt with by executive action. Sir, that is not a very satisfactory arrangement, and we would much prefer statutory provision. I would remind my Honourable friend, the Leader of the House, that in the Act as originally passed in 1925 the definition of "newsprint" was so unsatisfactory that advantage was taken by the customs of it to defeat the object of the Tariff Board and to levy a protective duty on certain newspapers.

(At this stage Mr. President resumed the Chair.)

That was done, and there was no executive action to set it right. Those particular papers had actually to pay over the money, and finally the matter had to be set right by an amending Bill in 1927. After that experience, I feel that the newspaper press is entitled not to be at the mercy of some executive action in this matter, but to have proper statutory protection to carry out the expressed intentions of the Tariff Board.

Mr. Abdul Matin Chaudhury (Assam: Muhammadan): Sir, on the 3rd of February this Report on the paper pulp industry was released for publication, and to-day on the 6th we are being called upon to give our support to the continuance of the principle of protection to the paper industry. Honourable Members, Sir, have had no detailed opportunity of going through the two volumes—the Report and the evidence on which the Tariff Board based their reports—and when I looked for these, they were not available in the Assembly Library. Then the commercial bodies or the press have had no opportunity of discussing this Report. Still, the Government are rushing this Bill through this House, the reason advanced being the pressure of official business. But I think, Sir, the real explanation of this unusual promptness lies in the fact that, although the industry that is going to be protected may have an Indian domicile, in every other respect it is predominantly European.

Mr. R. S. Sarma (Nominated Non-Official): Does the Honourable Member know that most of the shareholders of this are Indians?

Mr. Abdul Matin Chaudhury: There are about eight mills in India and five of them are entirely owned by Indians. Their production capacity is only about 15,000 tons. The Titaghur Paper Mills Company and the Bengal Paper Mill Company, whose production capacity is about 30,000 tons, are mostly European. I am afraid I have not been able to give the Reports any detailed attention but what I have seen of them satisfies me that, unless an assurance is forthcoming on certain essential points, the House will be justified in rejecting this motion. The Tariff Board, while recommending the continuance of protection, emphasised that the industry must conform to certain principles laid down in the Fiscal Commission's Report. That Commission, Sir, over which you presided, stated in its Report that before a grant is given to any industry or before money is spent on the stimulation of any industry, it is reasonable to insist that the company should be registered and incorporated with rupee capital, that there should be a fair percentage of Indian Directors, and that facilities should be given to Indian apprentices for training. Now, the Tariff Board is not satisfied that these conditions have been substantially complied with. As regards registration as

1 P.M.

Mr. Deputy President: We are not now discussing protection to the Tatas.

Mr. B. Das: I am prepared to give protection to any industry if necessary and I remind my Honourable friend that we are on the verge of constitutional changes. That being so, why do you want to pamper these paper manufacturers (Laughter) and other private companies? Why do you want to commit this House and the country to giving this protection till 1939? Did not the Honourable Member himself write in his report of 1925 that the Indian Paper Pulp Company was expected to become a limited company shortly after? Sir, we see capitalists investing money and I have heard them described as engaged in the process of something like fattening pigs with a view to reaping high prices ultimately. So these capitalists are fattening, and when the concern gets properly fattened, they go to the share market and sell their shares at a very high premium. Is that or is that not the intention of the Indian Paper Pulp Company? Why is it that during the last seven years the party never made any offer to pay back the money? Sir, these are some of the very serious objections that are agitating this side of the House, and if the Honourable Member will see his way to accomplish merely this that the Indian paper pulp industry will be protected, this side of the House will agree, but it will never agree if a few private persons, over whom the Government have no hold, profiteer. Some of them even do not belong to this country. We should remember the recommendations of the Tariff Board in 1925 that companies should not be pampered indiscriminately with further protection at the cost of the consumer and the taxpayer. Sir, in the very brief Statement of Objects and Reasons, there is nothing to suggest that this Bill throws over an important recommendation of the Tariff Board and also that it changes the existing protective Act. The Honourable the Commerce Member has however given us his reasons this morning for these changes. I hope the Select Committee will take this question into their most careful consideration, and will revert to the existing Act and to the decision of the Tariff Board. The question is a very technical one as it concerns the definition, for the purpose of the Act, of "newsprint", and I do not propose to detain the House by going into the details. But I would add this, that there has been in recent years a very great development of the newspaper industry in this country. In Calcutta for example, I think that every daily newspaper printed in the English language is now printed on a modern rotary press. Now these fast rotary presses can only use a newsprint which is a soft absorbent paper, and it has to be made actually from pine pulp. Now the possibility of protection for that quality of paper simply does not arise. Newspapers must import their newsprint; there is no newsprint produced in this country which they could possibly use on those presses. Therefore, whatever tax is put on, they will have to pay it; they will have to import their paper, and I contend that this change is merely an attempt to get extra revenue under the guise of protection. The Honourable the Commerce Member said this morning that if anyone were to order paper with a minimum of 65 per cent. chemical content, he would deserve what he got; but, Sir why would he deserve what he got? He would be ordering newsprint, and newsprint which could not be produced in this country. Now the Honourable the Commerce Member and Leader of the House, I know, does not want to penalize the newspaper press unnecessarily, and he wishes us to understand that although they are altering the definition in the Act to raise the minimum from 65 to 70 per cent. of mechanical content, the

[Mr. B. Das.]

case of newspapers will be considered and dealt with by executive action. Sir, that is not a very satisfactory arrangement, and we would much prefer statutory provision. I would remind my Honourable friend, the Leader of the House, that in the Act as originally passed in 1925 the definition of "newsprint" was so unsatisfactory that advantage was taken by the customs of it to defeat the object of the Tariff Board and to levy a protective duty on certain newspapers.

(At this stage Mr. President resumed the Chair.)

That was done, and there was no executive action to set it right. Those particular papers had actually to pay over the money, and finally the matter had to be set right by an amending Bill in 1927. After that experience, I feel that the newspaper press is entitled not to be at the mercy of some executive action in this matter, but to have proper statutory protection to carry out the expressed intentions of the Tariff Board.

Mr. Abdul Matin Chaudhury *(Assam: Muhammadan)*: Sir, on the 3rd of February this Report on the paper pulp industry was released for publication, and to-day on the 6th we are being called upon to give our support to the continuance of the principle of protection to the paper industry. Honourable Members, Sir, have had no detailed opportunity of going through the two volumes—the Report and the evidence on which the Tariff Board based their reports—and when I looked for these, they were not available in the Assembly Library. Then the commercial bodies or the press have had no opportunity of discussing this Report. Still, the Government are rushing this Bill through this House, the reason advanced being the pressure of official business. But I think, Sir, the real explanation of this unusual promptness lies in the fact that, although the industry that is going to be protected may have an Indian domicile, in every other respect it is predominantly European.

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a public company, they point out that an Indian Paper Company is yet a private concern. In paragraph 106 they say:

"The second and third conditions may be conveniently discussed together. As regards the Upper India Couper Paper Mills Company, the Deccan Paper Mills Company and the Andhra Paper Mills Company, the directorates are entirely Indian. The Titaghur Paper Mills Company had three Indian Directors on the Board in 1924 while at present four out of the seven Directors are Indians. The Bengal Paper Mill Company had one Indian and three British Directors in 1924 and now have one Indian and four British Directors. The proportion of Indian directorate in this Company is therefore lower now than in 1924. The Indian Paper Pulp Company being a private Company, this question does not arise in their case at present. With regard to the question of Indianization of the superior staff, although some progress has been made since 1924-25, the position cannot yet be regarded as satisfactory."

Then, Sir, in paragraph 107 they say:

"On a review of the facts stated in the foregoing paragraph we find that, of the three Companies in Bengal, the least satisfactory record in this respect is that of the Bengal Paper Mill Company. This Company have been in existence now for over forty years and during this long period appear to have made no progress whatsoever in associating Indians with the direction and superior management of their mill. We call special attention to this fact because we consider that the Company's record betrays a serious disregard of their obligations as an important unit in an industry receiving public assistance. As regards the other two Companies, while we acknowledge the efforts which have been made in this direction, particularly by the Titaghur Paper Mills Company, we desire to emphasise that unless further progress is made in the near future, they cannot be regarded as fulfilling substantially the conditions which underlie the grant of protection. It will be seen from paragraph 106 that it is in the most important section of the mills, namely the paper making department, that no progress has so far been reported."

Having said this much, the Tariff Board suggest some means by which these conditions can be enforced. They suggest that:

"'In making any such grant, subsidy loan or concession, we would recommend that a condition precedent should be observance by the Company concerned or the members of the Association of the principles laid down in paragraph 292 of the Fiscal Commission's Report.' The general lines on which this recommendation is conceived are equally applicable to the Paper industry. Concessions for the exploitation of forest areas containing bamboo or grass are already held by paper Companies or may be sought hereafter. We consider that the co-operation of Provincial Governments should be invited in securing suitable guarantees before any such lease is granted or renewed and in exercising all their powers including those of terminating the lease to ensure the observance of these conditions. Further, the Controller of Printing and Stationery now purchases annually nearly 10,000 tons of paper, equivalent to a fourth of the Indian production. If, within a reasonable time from the passing of the Protection Act, it is found that any of the Companies have failed, in the opinion of the Government, to make suitable progress in complying with these conditions, Government patronage should be withheld. Finally we believe that one of most effective means of enforcing these conditions would be to ensure public scrutiny of the progress made by each Company from time to time. For this purpose we recommend that the paper Companies should be required to submit periodical statements to the Government embodying the progress made by them as regards each of the conditions laid down in paragraph 292 of the Fiscal Commission's Report. These statements should be placed before both Houses of the Legislature so as to ensure sufficient public scrutiny. Any Company which refuses to submit the statements called for should be penalised by either of the two methods already mentioned or by such other means as Government may decide."

I am sure Honourable Members at least on this side of the House will find themselves in entire agreement with these recommendations. This House has always insisted that, before protection is granted to any industry, there should be a fair proportion of Indianisation of the superior staff and the personnel. But I am surprised to find that the Government have gone back on that accepted policy of the House in their Resolution

[Mr. Abdul Matin Chaudhury.]

dated the 3rd February. My friend Mr. Das has already made a reference to that Resolution. The Government say:

"The Board's recommendations in respect of observance by paper-making companies of the conditions laid down by the Indian Fiscal Commission are contained in paragraph 104 and succeeding paragraphs of its Report. The Government of India consider it necessary to advert specially to these recommendations because in one important respect they appear to indicate a misapprehension of the Government's accepted policy in the matter. The policy of the Government of India has at no time been to require as a condition of its receiving assistance through the tariff or by bounties that a company already engaged in an industry when the grant of assistance is under consideration should conform to the principles stated in paragraph 292 of the Fiscal Commission's Report. The principle that companies already engaged in an industry are not subject to the conditions in question received clear statutory authority in the first Steel Industry (Protection) Act of 1924, section 5 of which regulated the grant of bounties, and it was reasserted in unmistakable language by the External Capital Committee in 1925. While, therefore, the Government of India consider that manufacturing concerns enjoying tariff protection should hold it incumbent upon themselves to take such steps as are reasonably practicable to ensure Indian participation in the industry concerned, they must dissent from the view that compulsory methods of bringing about this result, such as those suggested in paragraph 108 of the Board's report, are justified by any declaration of policy which has been made by Government in the past."

Sir, from this interpretation of the intention of the Legislature I entirely differ.

The Honourable Sir George Rainy: Does the Honourable Member dissent from the express words enacted by the Legislature?

Mr. Abdul Matin Chaudhury: The intention of the Government, as expressed by Mr. Chatterjee, has been referred to in the Report of the Fiscal Commission. In paragraph 292 of the Report of the Indian Fiscal Commission it is stated:

"During the debate in the Legislative Assembly on the 2nd March 1922 on the Resolution moved by Sir Vithaldas Thackersey recommending that measures should be taken to provide that as large an amount as possible of the 150 crores set aside for the rehabilitation of railways during the next five years should be spent in India, Mr. Chatterjee on behalf of Government stated: 'The settled policy of the Government of India, as I think we have mentioned more than once in this Assembly, is that no concession should be given to any firms in regard to industries in India, unless such firms have a rupee capital, unless such firms have a proportion, at any rate, of Indian directors, and unless such firms allow facilities for Indian apprentices to be trained in their works. This has been mentioned more than once, and I can only repeat this declaration'."

Mr. S. C. Mitra: Please repeat it again for the benefit of the Honourable the Commerce Member.

Mr. B. Das: Mr. Chatterjee (Sir Atul Chatterjee) is no longer in the Government of India and his view does not hold good.

Mr. Abdul Matin Chaudhury: This interpretation is dissented from in the Resolution. I maintain the Tariff Board has more correctly interpreted the intention of this House. I am opposed to this unconditional grant of protection. For Government to accept only that portion of the Report which is in the interests of the companies which are predominantly European, and to reject that portion which is in the interests of the Indian public is a procedure which will not commend itself to any Member on this side of the House. (Hear, hear.) If the Indian consumer is to be burdened with a protective duty, it is necessary that the companies should assume an Indian character by conforming to the principle laid down in

the Report of the Fiscal Commission, and unless an assurance is forthcoming from Government that the means of observing those conditions that have been recommended by the Tariff Board will be acted upon, I think this House would be justified in refusing the motion for going to a Select Committee.

Mr. M. Maswood Ahmad (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, I am always opposed to any protective duty. By this means, the public is forced to pay more money to the manufacturers in India. A protective duty, in my opinion, is also one of the causes of trade depression. If this duty is imposed, what will happen? Generally authors will send their manuscripts to foreign countries and get them printed there, in order to escape this protective duty. Sir, this duty will affect the printing industry of India as well, because manuscripts will be sent to foreign countries for printing purposes to escape this duty. This was the opinion of one of the Honourable Members expressed on the last occasion at the time when the supplementary Finance Bill was under discussion:

"The paper duty has now risen to such a height that what happens is this. The publishing firm in question sends the manuscript of the book to England. It is printed in England by English labour, and then that book printed on the paper which would have been taxed very high comes into India free of any duty, because it is a printed book and therefore subject to no duty."

Sir, this opinion was expressed when there was no protective duty and now this duty will raise the paper duty to such an exorbitant height that it will ruin the printing industry in this country. Sir, the percentage of literacy in India is very low and by this protective duty when papers will become too costly, naturally books also will become very costly. With these words, I oppose the principle of the Bill.

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): I have read the Report of the Tariff Board and I must say that the reasons put forward by them are not convincing. There was a tariff fixed in 1925, and before it can be renewed, the companies or the persons interested in the manufacture of paper should convince not only the Tariff Board but also this Assembly as to what use they have made during the interval of the benefits given to them and what portion of the money which they have made has been used for the purpose of the business for the fostering of which protection was given to them. I find on page 52 of the Tariff Board Report as follows:

"The conclusion to which we are led by a consideration of the circumstances narrated in this Chapter is that considerable progress has been made in the improvement and development of bamboo pulp. Though progress has not been so immediate or so rapid as was anticipated six years ago, we believe that firm and solid foundations have been laid for the industry."

This has been accepted by the Government. Now let us see what these companies have done during the interval. On page 51 of the Tariff Board Report it is said:

"Thus the capital expenditure on the development of the bamboo pulp industry during the period of protection is ascertained to be:

	Rs. Lakhs.
Titaghur Paper Mills Company	5·83
Bengal Paper Mill Company	4·16
India Paper Pulp Company	1·50
Andhra Paper Mills Company	1·50 "

[Mr. S. C. Sen.]

Now it would be interesting to know what is the profit made by these companies during this period. According to page 22 of the Tariff Board Report the income of the Titaghur Paper Mills Company during this time amounts to about a crore of rupees. Out of this what they have been pleased to spend on the bamboo pulp industry is 5·83 lakhs, barely 5 per cent. of the income derived by them. That is considered by Government to be very good. Similarly if you make a comparison about the India Paper Pulp Company, they made an income of above 36 lakhs, and they have spent 1·50 lakhs for the purpose of the bamboo pulp industry, for the advancement of which protection was given to them. Now if Government consider that this is a very rapid and good progress, then what is the use of further protection at the rate mentioned in the Bill for the next seven years? If Government think that one per cent. of the income is sufficient for the purpose of developing the bamboo pulp industry during these years, why should we not consider for the next year the same amount to be sufficient? Why should there be such a big tariff for the purpose of the industry when the Government know perfectly well from past experience that these companies, so long as wood pulp will be available at cheaper rates, will not stick to bamboo pulp but will use wood pulp with a view to making profits at the expense of the consumer. These companies have made enormous profits and it is not proper that the Assembly should be asked to enable these companies to make further profits without putting some condition under which they will be bound to use more money, more funds for the purpose of the bamboo pulp industry, for the advancement of which this protection is to be given. Under these circumstances, I submit that no case has been made out for protection, and secondly for the amount of protection which is being offered by the Bill and also for the number of years.

The Honourable Sir George Rainy: Sir, I have listened with much interest to what has fallen from the Honourable Members who have spoken, but I do not think it is necessary that I should take up a great deal of the time of the House in my reply. I do not propose, for instance, to add to what I have already said on the point taken by my Honourable friend, Mr. Arthur Moore. As I have already indicated, that is really a Select Committee point, and no doubt some of the Members of the Select Committee will bring that question up and it can then be more easily and competently discussed in the Select Committee, because it is, as my Honourable friend said, a somewhat technical point.

Then I listened with great interest to the siren strains of my Honourable friend, Mr. B. Das, attempting to woo me from the attractions of protection to the more robust charms of free trade. In fact I found myself saying—when I looked first at him and then at Mr. Mody—"How happy could I be with either, were t' other fair charmer away!" For the moment, Mr. Mody has my heart and the soft spot in it.

The main question that has been raised in the course of the debate, and on which I should like to say something, is this question of Indianisation. But before I pass on to that, I should like to refer very briefly to what fell from the last speaker when he argued that the mills had made very insufficient use of their opportunities in developing the use of bamboo. I attempted to verify his figures from the Report, and I think there must be some misunderstanding, because I did not succeed in finding any figures indicating that the mills had made profits to anything like the

extent suggested. It is a question of opinion of course whether they could have done less or more; but when reference is made to the dividends paid by two of the paper mills, it is always necessary to remember that the capital account of both these mills has been very heavily written down in the past and that what looks like a high dividend on the share capital as it now stands is in reality quite a small dividend on the capital actually invested in the company. But what I would like to draw my Honourable friend's attention to is this. If he thinks that they ought to have done more in the past in the way of making full use of bamboo, we have at any rate provided in this Bill the necessary stimulus which will, I believe, make it necessary for the mills to follow an intensive policy of development in the way of making the fullest use of indigenous Indian materials. It is precisely for that reason that the duty on imported wood pulp has been proposed.

Now, as regards this question of Indianisation, I found it difficult to follow my Honourable friend, Mr. Abdul Matin Chaudhury, when he said that the House had always insisted on a certain policy and that Government had gone back on the accepted policy of the House. I asked him at that point whether he dissented from the words which the House had actually enacted, and he in reply quoted the Fiscal Commission. Very high authority attaches to the recommendations of that Commission, but I am not aware that this House has ever in terms committed itself to that particular recommendation to which he referred. Therefore if I am asked to say where the accepted policy of this House is to be found, the only place to find it is in an Act which this House has passed. I would like to read to the House section 5 of the Steel Industry Protection Act of 1924: it says:

"Notwithstanding anything contained in section 3 or section 4, no bounty in respect of steel rails, fish-plates or waggons shall be payable to or on behalf of any company, firm or other person—(and here come the words to which I wish to draw attention)—*not already engaged at the commencement of this Act in the business of manufacturing any one or other of such articles*, unless such company, firm or person provides facilities to the satisfaction of the Governor General in Council for the technical training of Indians in the manufacturing processes involved in the business, and in the case of a company, unless it is formed and registered under the Indian Companies Act, has a share capital expressed in rupees and such proportion of directors as the Governor General in Council may fix, consists of Indians."

I have quoted that because I think I am entitled to say that the inclusion in that section of the words "not already engaged at the commencement of this Act in the business of manufacturing" definitely shows how far the House as a whole had moved in the direction in which my Honourable friend desires us to move. He is fully entitled to say that he does not agree with the declarations of policy by Government in the past; he is quite entitled to say that the House would have been better advised to leave out the words which I have specially read. But I do not think he is entitled to say that we have gone back on any policy to which we have committed ourselves or indeed on any policy to which the House has committed itself.

I know quite well the importance my Honourable friends opposite attach to this question, and I am not at all sorry that it has been prominently brought to notice to-day. My own feeling about it has always been this, that if firms establish themselves in this country and desire to receive protection from the Legislature, as a matter of plain common sense and business prudence and also I think I may say, perhaps, of

[Sir George Rainy.]

reasonable good feeling, they ought to take active steps towards Indianisation. But it is quite a different matter when it is suggested that the Government should take out the big stick and say, "If you do not do this, we will make you do it".

My Honourable friend, Mr. Das, apparently found great difficulty in understanding what the policy of the Government was. If I on my part could understand what his difficulties are, I might perhaps be able to enlighten him. But after all in the Resolution which we published, we drew attention to the section of the Steel Industry Protection Act, which I have read: we drew attention to the Report of the External Capital Committee which was signed by two Members of the Government of India, and we might have referred, though we did not think it necessary to do so, to the relevant passage in the Reforms Despatch of the Government of India which has been published. It is the established policy of the Government of India that when concessions, bounties and subsidies are given to industrial firms, then in the case of any company not already engaged in the industry we enforce the conditions recommended by the Fiscal Commission. I should be very unwilling myself to initiate any new policy at this stage and for a very obvious reason. All Honourable Members are aware that that is a question directly connected with the very important issues which have been discussed in London in connection with the new constitution; and the very last thing, I think, which would be desirable would be that the conclusion of a satisfactory agreement to be embodied in the new constitution should in any way be retarded or impeded by anything said or done out here at present. It is a matter of quite first class importance for the future welfare of the country. And for that reason, even if for no other reason, it is impossible for Government to consider any material or substantial change in their policy in this matter at present. I hope I have said enough to satisfy the House that Government do appreciate the importance of the points which have been raised and that we are entitled to receive the support of this House as regards this Bill.

Mr. Abdul Matin Chaudhury: On a point of information, Sir. Do I understand that the paper industry . . . .

Mr. President: The Honourable Member can only rise for making a personal explanation. The question which I have now to put is:

"That the Bill further to amend the law relating to the fostering and development of the Bamboo Paper Industry in British India be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Mr. B. Das, Lala Hari Raj Swarup, Sirdar Harbans Singh Brar, Mr. S. C. Sen, Mr. B. V. Jadhav, Mr. S. C. Mitra, Seth Haji Abdoola Haroon, Mr. Muhammad Azhar Ali, Kunwar Hajee Ismail Ali Khan, Mr. G. Morgan, Mr. L. V. Heathcote, Sir Edgar Wood, Mr. A. H. Ghuznavi, Mr. R. S. Sarma and the Mover, with instructions to report on or before the 15th February, 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.

The Assembly then adjourned for Lunch till Twenty Minutes to Three of the Clock.

The Assembly re-assembled after Lunch at Twenty Minutes to Three of the Clock, Mr. Deputy President in the Chair.

THE INDIAN AIR FORCE BILL.

Mr. G. M. Young (Army Secretary): Sir, I move:

"That the Bill to provide for the administration and discipline of the Indian Air Force be referred to a Select Committee consisting of Sir Hari Singh Gour, Sardar Sant Singh, Mr. Gaya Prasad Singh, Sir Cowasji Jehangir, Sirdar Sohan Singh, Dr. Ziauddin Ahmad, Mr. Arthur Moore, Captain Sher Muhammad Khan Gakhar, Captain Rao Bahadur Chaudhri Lal Chand, Lt.-Col. Sir Henry Gidney and the Mover, with instructions to report on or before the 22nd February, 1932, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

As I said at the time of moving for leave to introduce this Bill, it is a long Bill, but I do not think that I need weary the House with a long speech at this stage. As to the principle of the Bill, there can be, I think, no controversy. The decision to raise an Indian Air Force has already been taken. The first batch of Indian officers trained at Cranwell is due to arrive in this country in the early summer. The other ranks are already under training. If there is to be an Indian Air Force, there must obviously be an Act of the Indian Legislature to give to that force a statutory existence, and to provide for its administration and control. As to the contents of the Bill also there can be, I think, very little question. If Honourable Members will look at the headings of the chapters, they will see that the provisions in this Bill are the normal provisions of a disciplinary Act of any arm of His Majesty's forces and that there is nothing unusual or new in them. The form of the Bill did give rise to some question. The alternatives were either to adapt the British Air Force Act with necessary modifications, or to have a self-contained Act. Owing to the unwieldy character of the British Air Force Act, and the numerous changes that would have to be made to suit Indian conditions, and adapting Act would be hardly less long than a self-contained Act, and would be much more complicated. It would be more difficult to frame and much more difficult to interpret and administer than a self-contained Act. So we decided to draft a self-contained Bill. This Bill, in order to save time, has been circulated by executive order. It has met with very little in the way of criticism or comment. Copies of the opinions received on it were placed in Honourable Members' hands about a week ago. All that remains now is to get down to a detailed examination of the provisions of the Bill in Select Committee, and I hope that we shall be able to do this in time to get the Bill passed through both Houses of the Legislature during the current session. Sir, I move.

Sardar Sant Singh (West Punjab: Sikh): I am glad to find that as regards the provisions of the Bill Government themselves have invited the opinion of the public on the most important clause in the Bill, clause 58. The principle involved in this clause has been commented upon by several gentlemen who have given their opinions. At this stage I will only point out that the healthy rule that a soldier belonging to the forces of His Majesty should be amenable to the jurisdiction of the civil court should not be departed from when the provisions of this Bill are examined thoroughly in the Select Committee. Clause 58 is such as to give rise to the fear that in the cases where a member of the Air Force commits an offence against a civil subject of His Majesty he may not have a chance of getting justice done to him through the courts and tribunals mentioned

LEGISLATIVE ASSEMBLY.

Wednesday, 10th February, 1932.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President in the Chair.

QUESTIONS AND ANSWERS.

Restrictions against Indians entering Panama.

168. *Mr. Gaya Prasad Singh: (*a*) Have the Government of Panama prohibited immigration into Panama territory of all Indians except those who can satisfy the Ministry of Foreign Relations that they have sufficient capital to draw upon?

(*b*) What is the approximate number of Indians in Panama territory; and why does this restriction apply to the Indians only? Do Government propose to inquire into this matter?

Sir Evelyn Howell: (*a*) Yes, Sir.

(*b*) The number of Indians in Panama is approximately 1,000. The restriction referred to in (*a*) above is based upon economic grounds and is in accordance with the generally recognised right of States.

(Before the question was asked.)

Mr. Abdul Matin Chaudhury: On a point of order, Sir. Is it in order for one Honourable Member to insinuate against another Honourable Member of the House?

Mr. B. Das: Let the question be replied to.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is in order.

Refusal of Permission to a Deputation of the All-India Jamiat-ul-Ulema to visit the North-West Frontier Province.

169. *Mr. Gaya Prasad Singh: (*a*) Is it a fact that the Chief Commissioner of the North-West Frontier Province, or the Foreign and Political Department of the Government of India invited two gentlemen to go to that Province under certain conditions, and to study the situation there? If so, who are these gentlemen, and how were they selected?

(*b*) Is it a fact that the All-India Jamiat-ul-Ulema which applied for a deputation to visit the Frontier Province to study the situation there has been refused permission? If so, why?

(*c*) Has the attention of Government been drawn to a communication from Maulana Ahmad Saied, Secretary, Jamiat-ul-Ulema, published in the *Amrita Bazar Patrika*, dated the 23rd January, 1932, in the course of which it is stated that, on the day preceding his departure, one member

[Sardar Sant Singh.]

in the Bill itself. Therefore it will be necessary to further examine the provisions in the light of the remarks made by several gentlemen. I will specially invite the attention of the House to the opinion given by the Home Secretary of the Government of the Punjab. On this clause he says:

"Apart from the fact that the latter might feel considerable inconvenience, in inducing his evidence before a Court Martial, he will be deprived of the police assistance which might be indispensible for the proper presentation of the case. It seems unfair that an injured party who is not subject to the Act should be compelled to seek redress through a Court Martial, and it is therefore suggested that the provisions of the clause should be so revised as to give power to an injured person who is not subject to the Act to apply for redress direct to the ordinary criminal courts."

The same difficulty has been pointed out by the Honourable the Judicial Commissioner of Ajmer-Merwara. He says:

"The provisions of clause 58 extend the jurisdiction of Courts Martial considerably beyond that provided by the corresponding sections 41 and 42 of the Indian Army Act but I see no objection to this. The only point which occurs to me is in connection with the difference in phraseology in the proviso to clause 58 of the Bill and in section 42 of the Army Act: the proviso to clause 58 excludes offences of murder, etc., committed against a person "not subject to this Act" while section 2 of the Army Act (unless it has been subsequently amended) relates to offences of murder, etc., committed against a person "subject to military law". Does "Military Law" include "Air Force law"? If so, a soldier who murders an airman would be triable by Court Martial under section 42 of the Army Act but an airman who murders a soldier would not be triable by Court Martial under clause 58 of the Bill and if a soldier and an airman jointly murder an airman or a soldier the position becomes somewhat complicated."

These defects in the phraseology of clause 58 have been pointed out, and I hope that in the Select Committee these defects will be cured. With these remarks I support this motion for reference to Select Committee.

Mr. S. G. Jog (Berar Representative): Sir, I take this opportunity of congratulating the Honourable the Army Secretary on placing before the House a very lengthy but all the same a self-contained Bill concerning the administration and discipline of the Indian Air Force. I also take this opportunity of congratulating him upon the moderate move that has been taken for the establishment of a class of Indian Air Force Officers. The move is not so far satisfactory and does not satisfy the ambitions of the Indian public. However, I congratulate him on the modest attempt that has been made in that direction. But what I find objectionable in the Statement of Objects and Reasons is that the Member in charge of the Bill still wants to make a distinction between the so-called martial and non-martial classes to which I would like to draw the attention of the House. He says:

"The Indian Army Act has existed in its present shape for 20 years covering a period of highly intensive use. It has been amended several times, certainly, but not heavily, and it is still the same measure, in arrangement and in substance. It is drafted in fairly simple English, easily comprehended by the Indian officer, and has been reproduced in translations known to the rank and file. The personnel of the Indian Air Force will very largely be drawn from the classes which now furnish recruits to the Indian Army, among whom some knowledge of the Indian Act is current."

The expression is not found in the Act itself, but I would point out to the House that the policy of the Government in making a distinction

between the martial and the non-martial classes should no longer in these days continue. The new recruits should be drawn from all classes, and no such invidious distinction should be made. Of course my observations have not much bearing so far as the provisions of the Act itself are concerned, but what is stated in the Statement of Objects and Reasons here should not be the future policy of the Government. That is the only point, Sir, to which I should like to draw the attention of Honourable Members. With regard to the other defects that have been pointed out by my Honourable friend, Sardar Sant Singh, I hope they will be remedied in Select Committee. Sir, I support the motion for reference of the Bill to a Select Committee.

Mr. G. M. Young: Sir, I have only a few words to say in reply to what has fallen from my Honourable friends, Sardar Sant Singh and Mr. Jog. As regards the objections urged by the former Honourable Member, I have only to point out that we ourselves recognized that the provisions of clause 58, which are taken directly from the provisions of the British Act, might be questioned, on the ground that they differ from the corresponding provisions of the Indian Army Act. So in circulating the Act we drew every body's attention pointedly to it, and invited opinions, and this will of course be one of the principal points for consideration by the Select Committee. Government have not reached any definite conclusion on the point. As regards the passage in the Statement of Objects and Reasons to which my Honourable friend, Mr. Jog, has drawn attention, I must say that I had not realized how much it might convey, in the direction of suggesting that the recruitment of the Air Force will be limited to certain classes. It was not intended to convey that impression at all. It was merely an anticipation that for some time at any rate those classes would be likely to provide the bulk of the volunteers for the Indian Air Force. But as far as I am aware, there is no intention at all to restrict the recruitment for this very small force. We shall merely take the best men we can get from whatever classes they come. Sir, I do not think I need say anything more on the subject.

Mr. President: The question is:

"That the Bill to provide for the administration and discipline of the Indian Air Force be referred to a Select Committee consisting of Sir Hari Singh Gour, Sardar Sant Singh, Mr. Gaya Prasad Singh, Sir Cowasji Jehangir, Sardar Sohan Singh, Dr. Ziauddin Ahmad, Mr. Arthur Moore, Captain Sher Muhammad Khan Gakhar, Captain Rao Bahadur Chaudhury Lal Chand, Lieut.-Col. Sir Henry Gidney and the Mover, with instructions to report on or before the 22nd February, 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.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 10th February, 1932.

of the so-called deputation "received a letter from Sir Evelyn Howell, Secretary, Foreign and Political Department, through a peon at my residence. When he opened that letter and read its contents loudly, he was very much pleased with it as it was an invitation to him to visit the Frontier Province under certain conditions"; but the gentleman in question was requested not to proceed until and unless he was allowed to make independent enquiries without any conditions, but the gentleman promptly replied that "the only aim of his deputation was to bring about reconciliation between the Mussalmans, and the Government of the North-West Frontier Province, and he did not mind the conditions which had been imposed by the Government"?

(*d*) Can a copy of this letter from the Foreign Secretary be placed on the table together with a copy of any report or communication which might have been submitted to Government?

Sir Evelyn Howell: (*a*) Yes. The invitation was conveyed to Maulvi Shafee Daoodi as the representative whom the Muslim Conference had deputed for this purpose. He was accompanied by Maulvi Mazhar-ud-Din.

(*b*) Maulvi Kifayatullah of the Jamiat-ul-Ulema announced his intention of visiting the North-West Frontier Province and was informed that his visit was undesirable at that time.

(*c*) Yes.

(*d*) I lay on the table a copy of my letter of the 9th of January, to Maulvi Shafee Daoodi. It was written after discussion with him. No report or communication has been submitted to Government or is expected.

Foreign and Political Department,
New Delhi, the 9th January, 1932.

MY DEAR MAULVI,

With reference to our conversation of this morning I enclose a letter of introduction to the Chief Commissioner. I have informed him that you and the other members of your party whose numbers are not likely to exceed three and of whose probable composition I have informed him will arrive in Peshawar by the 11 o'clock train on Monday the 11th of January with the object of finding out for the information of the All-India Muslim Conference the actual condition of affairs in the North-West Frontier Province. I have also told him that you on behalf of your party have agreed to go straight to Peshawar and to be generally guided by his advice as to your actions while in the North-West Frontier Province. If there is anything further that I can do for you, I trust that you will let me know and will inform me as soon as possible who the actual members of your party will be.

Yours sincerely,
(Sd.) E. B. HOWELL.

Maulvi Muhammad Shafee Daoodi, M.L.A.,
C/o Maulvi Mazhar-ud-Din, Editor, 'Alaman',
Qazi House, Delhi.

New Delhi,
9th January, 1932.

MY DEAR GRIFFITH,

This letter will be presented to you by Maulvi Shafee Daoodi, Member of the Legislative Assembly and at present Secretary of the All-India Muslim Conference, who with one or two other members has been charged by that Conference with the

duty of ascertaining the actual condition of affairs in the North-West Frontier Province about which some wild and disturbing rumours have been current in the Punjab and in Delhi. Maulvi Shafee Daoodi and the other members of his party are only concerned to ascertain the facts for the information of the Conference and rely upon you to put them in the way of ascertaining the truth. They have undertaken to go straight to Peshawar and while in the North-West Frontier Province to be generally guided as to their actions by your advice.

I may add that Maulvi Shafee Daoodi is an old friend of mine, and I am sure that you will find such personal relations as you may have with him as agreeable as I have always done.

Yours sincerely,
(Sd.) E. B. HOWELL.

The Hon'ble Lt.-Col. Sir Ralph Griffith, Kt., C.I.E.,
Chief Commissioner, N.-W. F. P.,
Peshawar.

Maulvi Muhammad Shafee Daoodi: May I, Sir, enlighten the House by disclosing that Maulvi Syed Ahmad Said . . . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member can only ask supplementary questions at this stage.

Maulvi Muhammad Shafee Daoodi: Is it a fact, Sir, that Babu Gaya Prasad Singh is acting as an agent of the Jamiat-ul-Ulema by putting this question? Is he not thereby furthering the cause of the Congress in the garb of the Jamiat-ul-Ulema?

Mr. B. Das: On a point of order, Sir. Can an Honourable Member of the House ask a question from another Honourable Member of the House besides the Government?

Maulvi Muhammad Shafee Daoodi: It is a bad precedent, Sir, to allow such questions to be put in the manner in which this question has been asked by Babu Gaya Prasad Singh.

Mr. Gaya Prasad Singh: Is it not in order to invite reference to a communication which has appeared in the public press and to ask the Government to lay a copy of the communication referred to in that letter on the table of the House for the information of the country?

Maulvi Muhammad Shafee Daoodi: But in the distorted, malicious and dishonest way in which it has been done.

Mr. President: The Honourable Member (Maulvi Muhammad Shafee Daoodi) need not have asked that question. The question was admitted and held to be in order.

DEPORTATION OF FATHER ELWIN FROM THE NORTH-WEST FRONTIER PROVINCE.

170. ***Mr. Gaya Prasad Singh:** Is it a fact that Father Elwin has been deported from the North-West Frontier Province? If so, why and under what law?

Sir Evelyn Howell: The Honourable Member's attention is invited to the reply given to part (*a*) of his question No. 142 in this Assembly.

CONTRACT FOR THE AIR MAIL SERVICE IN INDIA BY MESSRS. TATA AND SONS.

171. ***Mr. Gaya Prasad Singh:** Is it a fact that arrangements are being made with Messrs. Tata and Sons to work the Air Mail Service between Karachi and Madras *viâ* Bombay? If so, what are the terms of the contract; how long will it last; and what financial charge will fall on central revenues?

The Honourable Sir Joseph Bhore: Government propose to enter into an agreement with Messrs. Tata and Sons, Limited, Bombay, for the operation of a weekly air mail service between Karachi and Madras *viâ* Bombay. The Company will be given a contract for the carriage of all air mail on this route for a period of 10 years. No subsidy or guaranteed load of mail will be given. The Company will be paid according to the weight of mail matter actually carried, and it is estimated that such payments will be covered by the receipts of the Posts and Telegraphs Department. Consequently it is anticipated that no charge on this account will fall on central revenues.

Mr. S. G. Jog: Did any other firm approach the Government or was this the only firm which approached the Government?

The Honourable Sir Joseph Bhore: This is the only firm.

Mr. S. G. Jog: Was it publicly announced that any other firm could also offer their terms for this service?

The Honourable Sir Joseph Bhore: It was widely known that the Government were open to offer from any quarter for many years past.

APPOINTMENT OF WOMEN POLICE IN DELHI.

172. ***Mr. Gaya Prasad Singh:** (*a*) Are women police being recruited for the Delhi Police Service? If so, how many of them have already been recruited up to date; for what period; and for what purpose?

(*b*) Out of those so far recruited, to what communities do they belong, and what steps do Government propose to take to adjust communal claims in this matter?

The Honourable Sir James Crerar: (*a*) Yes. One Head Constable and 10 Constables have been recruited up to date, for a period of three months. They will be employed to deal with women delinquents, especially members of unlawful associations.

(*b*) One Anglo-Indian, three Hindus and seven Indian Christians. These were the best qualified candidates. There has been no racial or communal discrimination.

ELECTION OF INDIAN MEMBERS TO THE LEGISLATIVE COUNCIL IN FIJI.

173. ***Mr. Gaya Prasad Singh:** (*a*) Is it a fact that the estimated Indian population of Fiji is about 75,000, but there is not a single Indian member in the Legislative Council of that Colony?

(*b*) Is it a fact that the three Indian members who were returned under a communal franchise about two years ago, resigned their seats; and although Government called for another election later on, not a single Indian came forward for candidature?

(*c*) How far has the question of granting a common franchise, and common electoral roll in Fiji, advanced?

Sir Frank Noyce: (*a*) and (*b*). Yes.

(*c*) The decision rests with the Government of Fiji. So far no progress appears to have been made.

APPOINTMENT OF AN INDIAN AGENT IN FIJI IN PLACE OF THE SECRETARY FOR INDIAN AFFAIRS.

174. ***Mr. Gaya Prasad Singh:** Is it contemplated to abolish the post of Secretary for Indian Affairs in Fiji, and to appoint a suitable Indian Agent there?

Sir Frank Noyce: No, Sir.

EDUCATION OF EUROPEAN AND INDIAN GIRLS IN FIJI.

175. ***Mr. Gaya Prasad Singh:** (*a*) Are Government aware that in Fiji here is a fully-equipped Girls' Grammar School for European girls with boarding establishment costing the Government about £13,500 for the ostel alone, while very insufficient arrangement exists for the education f Indian girls?

(*b*) What is the amount of money spent over the education of Indian irls in Fiji?

Sir Frank Noyce: (*a*) and (*b*). Government have no information. Such statistics as are available, however, show that 9·4 per cent. of Indian girls of school-going age in Fiji were attending schools in 1929.

Mr. Gaya Prasad Singh: Do Government propose to obtain information on the point?

Sir Frank Noyce: I shall be glad to get the information.

GOLD EXPORTED FROM AND IMPORTED INTO INDIA.

176. ***Mr. Bhuput Sing:** Will Government be pleased to state:

(*a*) the total quantity of gold exported from India from September, 1931 to January, 1932;

(*b*) the total quantity of gold exported from India from September, 1930 to January, 1931;

(*c*) the total quantity of gold imported into India from September, 1931 to January, 1932; and

(*d*) the total quantity of gold imported into India from September, 1930 to January, 1931?

The Honourable Sir George Schuster: The Honourable Member is referred to Part V of the Accounts relating to the Sea-borne Trade and Navigation of British India and the Indian Trade Journal where he will find the latest figures available.

Dr. Ziauddin Ahmad: Do the figures published in the journals give the amount of gold exported last week?

The Honourable Sir George Schuster: No; the latest number of the publications referred to certainly would not include the exports for last week.

Dr. Ziauddin Ahmad: But the intention of the question is to get the latest figures, otherwise we should have got them ourselves.

The Honourable Sir George Schuster: The Honourable Member will get substantially the whole of the figures that he requires from the Trade Journals; and it is the practice in answering questions, if information is substantially available in public documents, to refer the Honourable questioner to those documents.

ALLEGED CANING OF PICKETS IN TINNEVELLY.

177. ***Mr. Bhuput Sing:** Will Government be pleased to state:

(*a*) whether their attention has been drawn to a Free Press message dated January 15th, from Tinnevelly in Madras alleging that two pickets were caned;

(*b*) if so, whether any enquiry has been made as to why they were caned and by whom;

(*c*) whether the Ordinance against picketing authorises the caning of volunteers; and

(*d*) if any special instructions have been issued by the Government of India to the Provincial Governments on this point; if so, what?

The Honourable Sir James Crerar: (*a*) I have seen the press message referred to.

(*b*) The matter is one with which the Local Government is fully competent to deal.

(*c*) and (*d*). The reply is in the negative.

MEMBERS NOMINATED FOR THE COMMITTEES OF THE ROUND TABLE CONFERENCE.

178. ***Mr. Bhuput Sing:** Will Government be pleased to state:

(*a*) whether the nominations made by the Prime Minister of the members of the four Round Table Conference Committees were made by him on his own initiative or upon recommendation from the Government of India;

(*b*) if the latter be the answer, why it is that no names of any Nationalist Muslims were recommended for nomination;

(*c*) if any member has been appointed to any of these Committees from Bihar and Orissa; if not, why not;

(*d*) what principles and methods have been followed in selecting the personnel of the Committees;

(*e*) whether the members of the Committees will be given travelling allowances; if so, on what scale; whether the British Government or the India Government bear the expenses incurred by the members; and

(*f*) when the Committees are expected to conclude their labours and what will be the approximate cost incurred in the works of these Committees?

The Honourable Sir George Rainy: (*a*) The nominations to the Consultative Committee were made by the Prime Minister and to the other Committees by His Majesty's Government.

(*b*) Does not arise.

(*c*) and (*d*). Of the four Committees, two are purely expert Committees (*viz.*, the Federal Finance and the Indian States Committees).

The desirability of making the Franchise Committee as far as possible representative of important interests and of responsible public opinion was recognised, and subject to the limit of members which was necessary, if the Committee was not to become of unmanageable size, every effort was made to secure this result. The Consultative Committee is a Working Committee of the Round Table Conference. His Excellency the Governor General acts as Deputy for the Prime Minister, and the members represent the general body of Indian delegates to the Round Table Conference.

(*e*) The members of the Committees, other than the members of the Consultative Committee, will receive travelling allowance as for first class officers on tour *plus* a tour allowance of Rs. 300 per mensem but no halting allowance. When travelling in reserved accommodation members will draw only their incidental expenses. Members of the Consultative Committee will receive allowances similar to those admissible to members attending sessions of the Indian Legislature. His Majesty's Government will bear all the costs and allowances of members from England except the cost of their travel in India. It is anticipated that the Treasury will also bear the cost of the Secretariat staff sent from England.

(*f*) The States Enquiry and Federal Finance Committees will, it is anticipated, have concluded their enquiries by the end of April, when the British members expect to return to England. In his letter of the 29th December to the Chairman of the Franchise Committee the Prime Minister has noted that it may not be possible for the Committee to complete its enquiry during the present cold weather, and has left it to the Chairman to consider whether, in the light of the progress made in his first tour, to issue an *ad interim* report on points on which provisional or final conclusions may have been reached by the Committee.

The Consultative Committee will not be in continuous session. It met for the first time on the 28th January and is to meet again on the 22nd February.

The probable expenditure from Indian revenues on account of these Committees has been estimated at Rs. 7,48,000, but this estimate is under revision in the hope that this amount may be reduced.

Mr. Lalchand Navalrai: Is the Honourable Member aware that in these nominations, no Hindu representative from Sind was nominated even though the question of separation of Sind was under consideration?

The Honourable Sir George Rainy: I am prepared to take it from my Honourable friend that it is so.

Mr. N. M. Joshi: May I ask why there is no representation of Indian Labour on the Franchise Committee and whether Government propose to appoint a representative of Indian Labour on that Committee now?

The Honourable Sir George Rainy: The appointments were made by His Majesty's Government and therefore I am not in a position to give a reply to my Honourable friend.

Mr. N. M. Joshi: Do the Government propose to make a representation to His Majesty's Government on this point?

The Honourable Sir George Rainy: The Government of India will certainly consider any suggestion that he makes.

Mr. Lalchand Navalrai: May I ask why Government did not nominate a Hindu representative from Sind on the Round Table Conference when the question of separation of Sind was being agitated?

The Honourable Sir George Rainy: Nominations to the Round Table Conference were made by His Majesty's Government or by the Prime Minister.

Mr. Gaya Prasad Singh: Was there no communication between the Government of India and the Prime Minister with regard to the nominations of individual names?

The Honourable Sir George Rainy: The Honourable Member is not entitled to draw that inference.

Mr. K. C. Neogy: Is it not a fact that certain names were added subsequent to the first announcement of the names?

The Honourable Sir George Rainy: I believe the Honourable Member is correct.

Mr. K. C. Neogy: Is it a fact that it was as a result of certain communications made either by the Government of India or certain Provincial Governments that this was done?

The Honourable Sir George Rainy: I must ask for notice.

Mr. Gaya Prasad Singh: Is it not a fact that the name of Dr. Ansari was in communication between the Government of India and the Secretary of State shortly before the announcement of the list?

The Honourable Sir George Rainy: I think my Honourable friend overlooks the fact that this question relates to certain Committees and not to the Round Table Conference.

Mr. B. Das: Did the Government of India represent to the Prime Minister and to His Majesty's Government that in the Federal Finance Committee, there were no British Indian experts while there were two Indian State experts?

The Honourable Sir George Rainy: I must again reply that the appointments to the Committees rested with His Majesty's Government and so I am not in a position to reply.

Mr. B. Das: Did the Government of India represent to the Premier the strong resentment of the British Indian public that no Indian financial expert finds a place in the Federal Finance Committee?

The Honourable Sir George Rainy: I think if the Government of India were constituting an expert Committee, they would pay more regard to the expertness of the persons appointed than to their nationality.

Mr. B. Das: Does the Honourable Member understand the anamoly that there are two so-called experts from the Indian States, while there are no British Indians?

The Honourable Sir George Rainy: My Honourable friend, the Finance Member, has drawn my attention to the fact that there is an Indian financial expert from British India on that Committee.

Mr. K. C. Neogy: Is it not a fact that there are two Government of India officials connected with the Federal Finance Committee, one as a Member and the other as a Secretary, and may I know whether these nominations were made by His Majesty's Government without any reference to the Government of India?

The Honourable Sir George Rainy: I am afraid I cannot answer any question concerning communications between His Majesty's Government and the Government of India.

Dr. F. X. DeSouza: With reference to the statement made by the Honourable the Leader of the House that the Franchise Committee was intended to be more or less a representative Committee, may I ask why the Government of India did not recommend the name of an Indian Christian, in view of the fact that according to the latest census, the Indian Christians number more than five millions and form more than five per cent., and are the third largest community in the whole of India?

The Honourable Sir George Rainy: I cannot add to the answer that I have already given.

Dr. Ziauddin Ahmad: Why was not the representative of the Taluqdars of Oudh nominated on this Committee?

(No answer was given.)

STEPS TO CONTROL MONEY-LENDING AND RATES OF INTEREST.

179. ***Lala Hari Raj Swarup:** (*a*) Will Government be pleased to state what steps they have taken in furtherance of the assurances given in reply to Sir Muhammad Yakub's Resolution on control of money-lending and rates of interest?

(*b*) What instructions have they issued to Provincial Governments in this connection? Will they be pleased to place a copy of these instructions on the table.

(*c*) Will Government be pleased to state what practical steps the various Governments in the Provinces are taking in the matter?

The Honourable Sir James Crerar: (*a*) and (*b*). The views of the Local Governments have been asked for. I place a copy of the letter addressed to them on the table.

(*c*) The views of some Local Governments are still awaited. They have been asked to expedite their replies.

COPY OF A LETTER No. F.-759/31-JUDICIAL, DATED THE 3RD NOVEMBER, 1931, FROM THE GOVERNMENT OF INDIA, HOME DEPARTMENT, TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS.

SUBJECT.—*Sir Muhammad Yakub's resolution recommending that legislation be undertaken to control money-lending and unrestricted usurious rates of interest.—Proposed Amendment of the Usurious Loans Act, 1918.*

I am directed to forward for the information of the Governor in Council / your information a copy of the extracts from the debates in the Legislative Assembly on a resolution moved by Sir Muhammad Yakub recommending that immediate legislation be undertaken to control money-lending and unrestricted usurious rates of interest in India. It will be observed that the resolution was withdrawn on an assurance being given by the Honourable Sir James Crerar on behalf of the Government of India that the matter would be brought to the notice of the local Governments as one requiring prompt consideration. It was stated that the Government of India were in sympathy with the object the mover had in view, but that before undertaking legislation they would call for a report on the working of the Usurious Loans Act, 1918, and that

if it appeared that its provisions had not been fully utilised, the local Governments would be asked to explore the causes which had led to its failure, and to suggest remedies to remove them. The Government of India also promised to ask for suggestions to amend the Act to make it really useful to achieve the object in view.

2. I am accordingly to request that a report on the matters mentioned in the preceding paragraph may be sent to the Government of India as early as possible. The general question of indebtedness has also been considered by the Royal Commission on Agriculture, the Indian Central Banking Enquiry Committee (Majority Report) and the Indian Royal Commission on Labour in India and the following recommendations concern the working of the Usurious Loans Act:

(1) Annual reports on the administration of Civil Justice should contain a special report on the working of the Usurious Loans Act—*clause (17) in paragraph 369 of the Agricultural Commission's Report.* The same recommendation is repeated by the Central Banking Enquiry Committee in paragraph 116 (2) of their report.

(2) The Punjab Regulation of Accounts Act, 1930 (Punjab Act I of 1930) is commended to the other provincial Governments—paragraph 116 (1) of the Central Banking Committee's Report.

(3) Provisions similar to certain provisions in the English Money-Lenders' Act are recommended for introduction in India by legislation in regard to money-lenders as defined in the Punjab Regulation of Accounts Act, 1930—summary paragraph 781 (9) and paragraph 122 of the above Report.

I am to request that the local Government will give their views on these suggestions also.

†(3. The suggestions contained in the Punjab Government's letter No. 5565-S.-Judicial, dated the 14th September, 1931, addressed to the Finance Department, will be considered along with the replies to this letter.)

†To Punjab only.

RENEWAL OF THE WHEAT IMPORT DUTY BILL.

180. ***Mr. Goswami M. R. Puri** (on behalf of Lala Hari Raj Swarup): (*a*) Has the attention of Government been drawn to the letter of Major Vanrehen and other communications on the wheat import duty published in the *Statesman* of the 15th January, 1932?

(*b*) Have Government received any representation from any Chamber of Commerce requesting the renewal of the Wheat Import Duty Bill?

(*c*) What steps do Government propose to take on these representations?

The Honourable Sir George Rainy: (*a*) Yes.

(*b*) Yes. From the Northern India Chamber of Commerce, Lahore.

(*c*) The Honourable Member is referred to the Bill to extend the operation of the Wheat (Import Duty) Act, 1931, for another year which is now before the House.

PRICES OF WHEAT AT CAWNPORE AND LYALLPUR.

181. ***Lala Hari Raj Swarup:** (*a*) What were the wholesale and retail prices of wheat at Cawnpore and Lyallpur in March, 1931 when the Wheat Import Duty Bill was passed? What are these prices now?

(*b*) What steps do Government propose to take to extend the provisions of the Act before it expires on the 31st March, 1932?

The Honourable Sir George Rainy: (*a*) I lay on the table a statement giving the required information so far as it can be obtained.

(*b*) The Honourable Member is referred to my reply to part (*c*) of his previous question.

Retail prices of wheat in seers and chittaks per rupee.

	Fortnight ending 15th March, 1931.	Fortnight ending 31st March, 1931.	Fortnight ending 15th December, 1931.	Fortnight ending 31st December, 1931.	Fortnight ending 15th January, 1932.
	Sr. Ch.	Sr. Ch.	Sr. Ch.	Sr. Ch.	Sr. Ch.
Cawnpore . .	14 0	13 0	12 0	11 8	11 8
Lyallpur . .	20 0	21 0	16 0	14 0	Not yet available.

Wholesale prices of wheat per maund.

	26th March, 1931.	2nd April, 1931.	17th December, 1931.	31st December, 1931.
	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.
F. O. R. Lyallpur .	2 0 0	1 14 0	2 8 9	2 10 6

	7th January, 1932.	14th January, 1932.	21st January, 1932.
	Rs. a. p.	Rs. a. p.	Rs. a. p.
F. O. R. Lyallpur .	2 9 0	2 8 6	2 10 0

Wholesale prices at Cawnpore.

20th March, 1931 . . . . . Rs. 2-9-6 per maund.

20th January, 1932 . . . . . Rs. 3-4-6 per maund.

Note.—The wholesale prices at Cawnpore represent the F. O. R. prices at Calcutta *minus* the railway, packing and handling charges.

REPORT OF THE COMMITTEE OF ENQUIRY INTO THE RIOT AT DERA ISMAIL KHAN.

182. ***Bhai Parma Nand:** (*a*) Is it a fact that a committee of enquiry was appointed to investigate into the riot at Dera Ismail Khan which took place on August 12th, 1931?

(*b*) Is it a fact that the above committee has completed its work and submitted its report?

(*c*) If the answer to part (*b*) be in the affirmative, why is it that the report has not been made public?

(*d*) Have that committee recommended any measures of relief for the people who suffered heavy losses on account of loot and arson?

(*e*) Have that committee found that the allegations made by the Hindus against the Police and other officers were correct?

(*f*) If the answer to part (*e*) be in the affirmative, do Government propose to take any steps against the persons concerned?

Sir Evelyn Howell: (*a*) and (*b*). Yes, Sir.

(*c*) Publication of the report has been withheld pending the result of efforts which are being made locally to bring about a reconciliation between the two communities.

(*d*) No, Sir.

(*e*) The Honourable Member is presumably referring to the allegations made in the "Report of the Sub-Committee of the Hindu Members of the Bar on the happenings of 12th August, 1931, at Dera Ismail Khan" to which the attention of the Government has been directed. The Committee did not find any of the allegations made in the pamphlet against any officer of Government, whether belonging to the police or any other Department, to be correct. The conduct of the Police as a whole was one of the points on which they were unable to reach unanimity, but they describe the general effect of their work as undoubtedly excellent.

(*f*) Does not arise.

Bhai Parma Nand: How long will it take to publish the report?

Sir Evelyn Howell: We hope to publish it very shortly.

CLOSING OF A DISPENSARY AT RAMSAR.

183. ***Diwan Bahadur Harbilas Sarda:** (*a*) Is it a fact that a Government dispensary was opened nearly 60 years ago at Ramsar, an important village and at one time a Tahsil in Ajmer-Merwara, with a population of about 2,300 people and that it provided medical help to Ramsar and the neighbouring villages inhabited by several thousand people?

(*b*) Is it also a fact that the proprietary body of the village, called Shamlat, provided and maintained the building for the dispensary at considerable cost to the village?

(*c*) Are Government aware that after the establishment of this dispensary, *Hakeems* and *Vaidyas* who practised in the villages served by the dispensary, all disappeared and now no *Hakeem* or *Vaidya* is to be found in these villages?

(*d*) Is it a fact that only recently the village of Ramsar paid Rs. 300 to the Medical Administration of Ajmer-Merwara?

(*e*) Is it a fact that in December last the dispensary was ordered to be removed from Ramsar?

(*f*) Is it a fact that the decision to close the dispensary was influenced by report of want of commodious accommodation for the Sub-Assistant Surgeon in charge of the dispensary?

(*g*) Are Government aware that the decision to close this dispensary has caused dismay and dissatisfaction throughout the part of the District bounded by Kekri on the East, the city of Ajmer on the West, Kishengarh on the North and by Bhinai on the South?

(*h*) Is it a fact that the General Purposes Sub-Committee of the Retrenchment Committee, which has dealt with the question of retrenchment in Ajmer, considered the question of medical requirements of Ajmer-Merwara and declined to recommend the closing of any dispensary as a measure of retrenchment, being of opinion that the number of dispensaries in Ajmer-Merwara was below the minimum medical requirements of the district?

(*i*) Do Government propose to re-establish the dispensary at Ramsar?

Sir Frank Noyce: (*a*) Yes.

(*b*) The building was maintained by the Dispensary Fund.

(*c*) The facts may be as stated, but Government have no information.

(*d*) and (*e*). Yes.

(*f*) No.

(*g*) If there is any dissatisfaction, it is hardly warranted since Ramsar is connected by a good road with Nasirabad, 10 miles away, at which there is a hospital.

(*h*) Government have not yet seen the report of the General Purposes Sub-Committee on Ajmer-Merwara.

(*i*) Not at present.

RATIO OF EUROPEAN, ANGLO-INDIAN AND INDIAN TIME-KEEPERS IN THE PUBLIC WORKS ENGINEERING DEPARTMENT.

184. ***Rao Bahadur S. R. Pandit** (on behalf of Sardar G. N. Mujumdar): (*a*) Will Government be pleased to state what is the ratio of Europeans, Anglo-Indians and Indians for the last ten years in the cadre of Time-keepers in the P. W. Engineering Department, Great Indian Peninsula Railway?

(*b*) Is it a fact that the vacancies in the Sub-Inspector Permanent-way Inspectors rank are filled in by promotion from Time-keepers and Apprentice Plate-layers?

(*c*) If so, will Government state how many vacancies were filled in every year from Time-keepers and Apprentice Plate-layers?

(*d*) How many candidates have qualified for the post of Sub-Inspector Permanent-way Inspectors?

(*e*) Are there any qualified men (for S. I. P. W. Inspectors' Posts) who belonged to the Apprentice Plate-layer ranks, but are not promoted to the S. P. W. I.? What is the proportion of candidates qualified for S. P. W. I. from Apprentice, Plate-layers and Time-keepers in the P. W. Engineering Department but not promoted to the S. P. W. Inspectors?

(*f*) Will Government state what is their policy in making the selection for the posts of the S. P. W. Inspectors?

Sir Alan Parsons: (*a*), (*d*) and (*e*). Government regret that they cannot undertake to collect the information required as it would entail a disproportionate expenditure of time and labour.

(*b*), (*c*) and (*f*). Government have no information. Such matters are within the discretion of Railway Administrations.

APPRENTICE PLATE-LAYERS APPOINTED AS PERMANENT WAY SUB-INSPECTORS.

185. ***Rao Bahadur S. R. Pandit** (on behalf of Sardar G. N. Mujumdar): (*a*) Will Government please state what expenditure is incurred by them on each apprentice, who qualifies for the S. P. W. Inspectors post in the P. W. Engineering Department, Great Indian Peninsula Railway?

(*b*) Do Government propose to discontinue the Apprentice Plate-layer system, with a view to make retrenchment?

Sir Alan Parsons: (*a*) The information is not available.

(*b*) The matter is within the competence of the Agent, Great Indian Peninsula Railway, to decide and Government do not propose to interfere. I am, however, bringing the Honourable Member's question to his notice.

REVERSION TO TIME-KEEPERS POSTS OF CERTAIN PERMANENT WAY SUB-INSPECTORS.

186. ***Rao Bahadur S. R. Pandit** (on behalf of Sardar G. N. Mujumdar): (*a*) Is it a fact that certain S. P. W. Inspectors who were drawing Rs. 140 or so in the P. W. Engineering Department, Great Indian Peninsula Railway, were reverted to their Time-keepers' posts on Rs. 80 after four or five years?

(*b*) Is it a fact that the application for reconsideration submitted by some of the reverted temporary S. P. W. Inspectors was not sent up to the Railway Board by the officer in charge?

(*c*) If so, are Government prepared to make inquiries in this behalf and take proper steps to remove the injustice, if any, done to the persons concerned?

Sir Alan Parsons: (*a*) and (*b*). Government have not the information.

(*c*) The matter is within the competence of the Agent, Great Indian Peninsula Railway, to decide and Government do not propose to interfere. I am, however, bringing the Honourable Member's question to his notice.

CRITICISMS OF THE DELHI SEWAGE FARM.

187. ***Mr. E. F. Sykes:** (*a*) Have Government seen the criticisms of the Delhi Sewage Farm in a recent report on the sanitary conditions of Delhi?

(*b*) What action do Government propose to take on the question?

(*c*) What immediate steps do they propose to take to abate the nuisance?

(*d*) Under whose advice was the farm instituted?

(*e*) Will Government please lay on the table the report of their adviser?

Sir Frank Noyce: (*a*) I am not sure, Sir, to what report the Honourable Member is referring. The matter has, however, come to the notice of the Government of India in the note recorded by their Public Health Commissioner on the annual Health Report of the Delhi province for the year 1930.

(*b*) A scheme for installing artificial means of dealing with the sewage in preference to land treatment is being prepared, but as the scheme is likely to be costly it will probably not be possible to undertake it in the near future.

(*c*) Work on the laying of pipes for supplying the villages on the outskirts of the Farm with filtered water is in hand, and when it is finished a good deal of the nuisance caused by seepage will be removed. The quantity of sewage dealt with on the land has also been reduced by making full use of the existing installation of sprinkling filters.

(*d*) The Farm was established on the advice of the Delhi Town Planning Committee and the site was selected by the Public Works Department.

(*e*) Extracts from the reports have been placed in the Library of the House.

Mr. E. F. Sykes: With regard to part (*c*), the nuisance to the villagers has been abated, but what about the nuisance to the travellers along the Mathura road?

Sir Frank Noyce: It is largely a matter of funds and the Honourable Member is aware of the difficulties in that connection.

APPOINTMENT OF MUSLIMS TO THE NORTH WESTERN RAILWAY MEDICAL SERVICE.

188. ***Mr. M. Maswood Ahmad** (on behalf of Shaikh Sadiq Hasan): (*a*) Will Government please state the total number and of them the number of Muslims and non-Muslims in each of the following cadres of the North Western Railway Medical Department:

(i) Divisional Medical Officers:

(ii) Assistant Surgeons:

(iii) Sub-Assistant Surgeons:

(iv) Head Clerks:

(v) Clerks: and

(vi) Dispensers?

(*b*) In case the number of Muslims in the North Western Railway Medical Service is inadequate, do Government propose to take steps to appoint more Muslims?

Sir Alan Parsons: (*a*) (i). Three, of whom one is a Muslim.

(ii) Twenty-five, of whom three are Muslims.

(iii) Ninety-eight, of whom nine are Muslims.

(iv), (v) and (vi). Government have no information.

(*b*) District Medical Officers are recruited for all the State-managed Railways and not separately for the North Western Railway. As regards the subordinate staff, the Agent, North Western Railway, is aware of the policy of Government to prevent the preponderance of any particular community in railway service, and Government have no reason to believe that this policy is not being followed on the North Western Railway.

RECRUITMENT OF ASSISTANT SURGEONS ON THE NORTH WESTERN RAILWAY.

189. ***Mr. M. Maswood Ahmad** (on behalf of Shaikh Sadiq Hasan): (*a*) Will Government please state what is the procedure adopted in the recruitment of the Assistant Surgeons on the North Western Railway? Is it through Selection Boards?

(*b*) If so, how many Selection Boards were held so far?

(*c*) Are there any instances of recruitments when they were appointed first and then produced before the Selection Board for formal approval?

(*d*) If there are any instances, will Government please state the number of Hindus, Muslims and Sikhs so appointed?

Sir Alan Parsons: (*a*) Recruitment of Assistant Surgeons on the North Western Railway is made through Selection Boards.

(*b*) Two.

(*c*) and (*d*). In two instances appointments of Assistant Surgeons were made against temporary vacancies for short periods without a Selection Board. One of these temporary Assistant Surgeons was a Sikh and the other a Hindu. Both appeared before a Selection Board which was subsequently convened and they and three other candidates then selected have received appointments.

NUMBER OF INDIAN MEDICAL DEPARTMENT ASSISTANT SURGEONS ON THE NORTH WESTERN RAILWAY.

190. ***Mr. M. Maswood Ahmad** (on behalf of Shaikh Sadiq Hasan): (*a*) What was the number of Indian Medical Department Assistant Surgeons on the North Western Railway?

(*b*) Has this number been reduced recently?

(*c*) If so, from what date?

(*d*) How many have been so reduced?

Sir Alan Parsons: (*a*) Fourteen.

(*b*) to (*d*). The North Western Railway have four more Military Assistant Surgeons than its sanctioned cadre. On the other hand the other State-managed Railways have six Military Assistant Surgeons less than their sanctioned cadre. The excess on the North Western Railway will be removed by transferring Military Assistant Surgeons to the other State-managed Railways as vacancies occur.

STAFF OF THE SECURITY PRINTING INDIA, CURRENCY NOTE PRESS AND CENTRAL STAMP STORES AT NASIK.

191. ***Mr. M. Maswood Ahmad** (on behalf of Nawab Naharsingji Ishwarsingji): Will Government be pleased to state:

(*a*) the total number of permanent men (pensionable, non-pensionable and on contract) working in the Security Printing India, Currency Note Press and Central Stamp Stores at Nasik Road, *excluding* pattawalas and the Watch and Ward Department giving the following details about all the Government servants referred to above individually; (1) Name; (2) Designation; (3) Grade with present pay; (4) Educational qualifications where necessary; and (5) Caste to which he belongs, if a Hindu, giving his sub-caste, *i.e.*, Brahmin, Bania, etc.

(*b*) whether it is a fact that there are only 5 permanent Muslims in all the three concerns referred to in part (*a*) above; and

(*c*) the total number of Muslims and non-Muslims drawing a salary of Rs. 100 per month and above?

The Honourable Sir George Schuster: (*a*) There are 120 employees of these categories. The preparation of a list giving the details asked for would involve an expenditure of time and labour which cannot at present be spared.

(*b*) Yes, and in addition, there are 17 Muslims in the Watch and Ward.

(*c*) Muslims 2, including one in the Watch and Ward. Non-Muslims 70, including gazetted officers, Europeans, Anglo-Indians and Indians.

APPOINTMENT OF MUSLIMS IN THE SECURITY PRINTING, INDIA, CURRENCY NOTE PRESS AND CENTRAL STAMP STORES.

192. ***Mr. M. Maswood Ahmad** (on behalf of Nawab Naharsingji Ishwarsingji): Will Government be pleased to state:

(*a*) the years in which the following concerns began working: (1) Security Printing, India, (2) Currency Note Press, and (3) Central Stamp Stores;

(*b*) whether Government orders were issued prior to the commencement of these concerns to give preference to Muslims in Government service;

(*c*) if the reply to part (*b*) above is in affirmative, why so few Muslims were selected and what action Government propose to take for the recruitment of Muslims in future and for promotion of those already in the service there to ministerial as well as non-ministerial heads of offices as belonging to a minority community; and

(*d*) out of 5 permanent Muslims now working, how many were directly appointed and how many were transferred from other Government offices?

The Honourable Sir George Schuster: (*a*) (1) 1925.

(2) and (3) 1928.

(*b*) No.

(*c*) The first part of the question does not arise. Steps will be taken to recruit more Muslims against vacancies both by promotion and fresh recruitment, but there is little likelihood of any vacancies in the near future.

(*d*) There are 22 Muslims now working, out of whom four were transferred from other Government offices and the rest appointed directly.

APPOINTMENT OF APPRENTICES TO THE SECURITY PRINTING, INDIA AND THE CURRENCY NOTE PRESS.

193. ***Mr. M. Maswood Ahmad** (on behalf of Nawab Naharsingji Ishwarsingji): Will Government be pleased to state:

(*a*) The number of apprentices selected on the technical side in the Security Printing, India, and the Currency Note Press in different grades giving their caste and qualifications;

(*b*) of these how many were provided with permanent jobs and how many were sent away either duly trained or retrenched without completion of course and the reasons for the latter;

(*c*) whether it is a fact that two Muslim apprentices with previous experience in printing in England were engaged;

(*d*) whether they were promised to be provided with some permanent jobs by the Master, Security Printing, India, before appointment;

(*e*) whether Government are aware that one of them was ill-treated by his Anglo-Indian and European superiors: and is it a fact that he was subsequently sent away on account of reduction of establishment;

(*f*) what the total strength of apprentices was when one Muslim apprentice was sent away and reasons for so doing;

(*g*) whether there are any permanent vacancies on the technical side; and

(*h*) if so, the reasons for not appointing Muslims to any of them?

The Honourable Sir George Schuster: (*a*) A statement containing the required information is laid on the table. Statements giving similar information were laid on the table in reply to parts (*c*), (*d*) and (*g*) of the starred question No. 261 by Diwan Bahadur T. Rangachariar on the 2nd February, 1931.

(*b*) No apprentices have been provided with permanent jobs. Four have finished their training, of whom one proceeded to England, one has been given a scholarship to England for further study, one completed his course recently and left and the fourth has been retained on daily pay; two have resigned. Three have been dismissed, one on account of incompetence and idling, one for irregular attendance and bad work, and the third for gross carelessness resulting in serious damage to a machine.

(*c*) Yes.

(*d*) and (*e*). No.

(*f*) There were 18 apprentices then working. The Muslim apprentice was the one dismissed on account of incompetence and idling.

(*g*) Yes.

(*h*) They are not at present being filled on account of diminished work. The claims of any Muslim qualified for appointment will be duly considered when they are filled.

Statement.

Grade.	No.	Race or Religion.	No.	Qualifications (Educational or other).	No.
A . .	20	Europeans . .	2	First year Arts . . .	2
B . .	5	Statutory Indians .	9	Matriculates	5
		Hindus . . .	9	School Leaving Certificate .	1
		Indo-Portuguese Christian.	1	Senior Cambridge . . .	1
		Muslims . . .		Junior Cambridge . . .	1
		Sikh . . .	2	8th Standard . . .	1
		Christian . . .	1	7th Standard . . .	4
			1	3 Years' desultory training in England.	5
				Technical School 3rd year .	2
				Below 6th Standard . .	1
					3

PUBLICATION BY NEWSPAPERS OF PROCEEDINGS OF THE LEGISLATIVE ASSEMBLY.

194. ***Mr. Gaya Prasad Singh** (on behalf of Sardar Sant Singh): (*a*) Will Government be pleased to state if under any Ordinance or Rules made or orders issued by any executive authority newspapers could be penalised for publishing reports of the proceedings of this House?

(*b*) If the reply to part (*a*) be in the affirmative, will Government kindly state reasons for issuing such rules or orders?

(*c*) Are Government aware that such penalising of newspapers is regarded as a serious encroachment on the privileges of this House?

The Honourable Sir James Crerar: (*a*), (*b*) and (*c*). No rules or orders of the kind suggested by the Honourable Member have been issued. The right of free speech secured to Honourable Members of this House by section 67 (7) of the Government of India Act is not affected by any Ordinance. I would, however, point out that the provisions of the section do not apply to the publication of reports by newspapers, of which the liability is determined by other provisions of law, including the Indian Press Act of 1931, and by the provisions of the Ordinances, in particular, by section 63 of Ordinance No. II of 1932.

Mr. B. Das: Do I take it that the publication of the reports of this Assembly will be subject to the provisions of these Ordinances and laws which my Honourable friend quoted just now?

The Honourable Sir James Crerar: In certain circumstances it is possible that a publication might fall within these provisions.

Mr. S. C. Mitra: Even though the speech may have been allowed by the President and the Honourable the Leader of the House took no objection?

The Honourable Sir James Crerar: I think it is possible that that might happen, but I really cannot undertake to answer a hypothetical question.

Mr. B. Das: In that case is it not fair on the part of the Government of India to specify the questions of Honourable Members which may be banned under these Ordinances and Press Acts?

The Honourable Sir James Crerar: I am afraid I could not undertake so embarrassing a duty.

Mr. B. Das: Will the Honourable Member see that a special officer is appointed for that purpose?

(No answer was given.)

Mr. B. Das: Is it the intention of Government to prosecute the Indian press for publishing speeches of Honourable Members of this House without Government taking steps to ban those speeches?

The Honourable Sir James Crerar: My reply is that the circumstances of the publication must be taken into consideration, and what action would be taken by the Executive Government or what view might be taken by the courts is purely a hypothetical question which I cannot answer.

Mr. B. Das: Will the Government of India leave the consideration of these subjects to the Provincial Governments, or will they retain in their

hands the power of revision when the press is prosecuted, or will they submit those cases to this House to see whether the press was rightly prosecuted?

The Honourable Sir James Crerar: No, Sir; I cannot give any such undertaking.

Mr. B. R. Puri: Will the Honourable Member consider the feasibility of holding the meetings of the Assembly *in camera* and exclude the press altogether, in order to save them from being exposed to unnecessary danger, as they would have no means of knowing what portions of the proceedings are or are not allowed to be published? Are the Government of India prepared to give some directions for the guidance of the press and for the guidance of the Honourable Members themselves?

The Honourable Sir James Crerar: I cannot add to my reply to this question. It is quite plain that, in endeavouring to answer the Honourable Member's question, I must embark on a purely hypothetical field, and I cannot undertake to do so.

Mr. K. C. Neogy: Will the Honourable Member consider the advisability of publishing model speeches for the guidance of Honourable Members of this House? (Laughter).

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to enlighten the House if there is such a practice in England or in Europe where the press has been penalised for publishing any portions of speeches of Members made in Parliaments?

The Honourable Sir James Crerar: Yes; that is certainly the case and I would refer the Honourable Member to the relevant passages in Sir Erskine May's "Parliamentary Practice".

EXPULSION OF FATHER ELWIN FROM THE NORTH-WEST FRONTIER PROVINCE.

195. ***Mr. Gaya Prasad Singh:** (*a*) Is it a fact that Father Elwin, an Oxford Professor, had been in the North-West Frontier Province only for about five days, when he received orders from the Deputy Commissioner to leave the Province by the first available train?

(*b*) Has the attention of the Government been drawn to his Press statement published in the *Hindustan Times*, dated the 27th January, 1932, in the course of which he says that "all the routes to the province were guarded by armed sentries, while cities like Kohat were bristling with soldiers and barbed wires"; that "the Red Shirts had nothing to do with Moscow"; that "lathi charges in Peshawar were exceptionally severe"; and that "beneath the apparent quiet there are noticeable signs of indignation especially among the well-to-do people. The situation is none-the-less critical. My impression is that these measures of repression can never be successful"?

(*c*) Is it a fact that Father Elwin asked the Deputy Commissioner, for an interview; but the latter refused? If so, why?

(*d*) Is it a fact that "a First class European passenger coming into Peshawar, was mistaken for Father Elwin and was taken out of the compartment, and detained for some time"? Who was this unfortunate gentleman so treated?

(*e*) What is the offence of Father Elwin, and is he going to be put on his trial? If not, why not?

Sir Evelyn Howell: The reply to questions regarding Father Elwin are as follows:

(*a*) and (*b*). Yes.

(*c*) Yes. The Deputy Commissioner did not consider any useful purpose would be served by an interview.

(*d*) No.

(*e*) Father Elwin, so far as the Government of India are aware, has committed no offence and is therefore not going to be put on trial.

Mr. Gaya Prasad Singh: Will my Honourable friend, Maulvi Muhammad Shafee, supplement this answer of the Foreign Secretary, with whom he now seems to be hand in glove?

Maulvi Muhammad Shafee Daoodi: I do not think this is the place for passing words like these.

OVERCROWDING AND CATERING ON THE GRAND TRUNK EXPRESS.

196. ***Rao Bahadur M. C. Rajah:** (*a*) Are Government aware that there is a lot of overcrowding in the second class compartments in both Up and Down Grand Trunk Expresses owing to the small number of such compartments provided therein, and that as a result second class passengers are put to a lot of inconvenience and are sometimes compelled to travel in the intermediate class? Do Government propose to provide more second class compartments in both these trains, at least during the rush season?

(*b*) Are Government aware that very often the locks and bolts inside the compartments of the said trains, especially in the upper class carriages, are not in proper working order? Do Government propose to test each and every compartment of the Grand Trunk Express trains to see that everything is in order, before it is passed on as fit for being attached to the train?

(*c*) Are Government aware that the present Indian restaurant car attached to these trains caters only for vegetarian passengers? Do Government propose to introduce a restaurant car which will cater also for the non-vegetarian travelling public?

Sir Alan Parsons: (*a*) No. The actual composition of trains is a matter for Railway Administrations to determine with reference to local conditions.

(*b*) No. Government have no doubt that Railway Administrations realise their responsibility in such matters.

(*c*) No. I am, however, bringing the Honourable Member's question to the notice of the Railway Administrations concerned with a view to their considering the feasibility of arranging to cater for non-vegetarian passengers also on sections over which this is not being done at present.

INCONVENIENT TIMINGS OF THE GRAND TRUNK EXPRESS.

197. ***Rao Bahadur M. C. Rajah:** (*a*) Are Government aware that the present timings of arrival and departure both at Delhi and Madras of the Grand Trunk Express are greatly inconvenient to the through travelling public?

(*b*) With reference to the reply of Mr. Parsons to part (*g*) of starred question No. 837 put by Mr. Sitaramaraju in the Legislative Assembly on the 23rd September, 1931, will Government be pleased to state what steps have been taken to improve the present timings substantially in the coming revision of the timings of the Grand Trunk Express?

Sir Alan Parsons: (*a*) As I informed an Honourable Member previously in reply to his question No. 837 on the 23rd September, 1931, the inconvenience caused by the present timings is recognised.

(*b*) There has been no change in the circumstances which necessitated the present timings to permit of any substantial change being made in them.

RETRENCHMENT CONCESSIONS.

198. ***Rao Bahadur M. C. Rajah:** (*a*) Will Government be pleased to state for how long it is proposed to keep the present retrenchment concessions in force?

(*b*) Are Government aware that there is a strong feeling that the retrenchment concessions now offered are far below those offered in 1921, when retrenchment was effected as a result of the Inchcape Committee's recommendations?

The Honourable Sir George Schuster: (*a*) The concessions will remain in force until the cases of personnel selected for discharge in accordance with the present retrenchment operations have been disposed of.

(*b*) Government have no reason to suppose that the terms now in force are regarded as inadequate. The extra statutory concessions now given will cost Government more in the aggregate than the concessions based on the 1923 model would have done because all are treated alike, though none extravagantly.

ARREST OF MR. J. N. SEN GUPTA ON BOARD AN ITALIAN SHIP.

199. ***Rai Bahadur Sukhraj Rai:** (*a*) Will Government be pleased to state whether it is a fact that Mr. J. M. Sen Gupta, was arrested in Bombay under Regulation III of 1818 on the deck of an Italian ship before he landed in Bombay?

(*b*) Is it a fact that the Captain of the ship protested against the manner in which the Police were trying to arrest a person under the protection of the Italian Flag?

(*c*) Will Government please state whether Mr. Sen Gupta gave any indication of what was in his mind before he left England or when he was on board the ship that he would do something evil?

(*d*) Under whose orders, why and for what reasons was the arrest made? Did the Government of India issue any special instructions on the subject?

(*e*) Will Government please state why the arrest was not delayed till after he had landed in Bombay and given some indication of his views on the political situation in the country?

(*f*) Is it proposed to penalise even a man for his supposed previous utterances and actions?

The Honourable Sir James Crerar: (*a*) and (*b*). I am making enquiries.

(*c*) to (*f*). If the Honourable Member will refer to the Preamble to Regulation III of 1818, he will observe that the powers given are preventive, and are intended to be exercised when necessary to maintain internal tranquillity. The Government of India were satisfied that it was necessary in all the circumstances to place Mr. Sen Gupta under restraint.

Mr. C. C. Biswas: Are the Government satisfied that in the circumstances in which the arrest was made, it was legal either under the law of the land or under the rules of international law?

The Honourable Sir James Crerar: I have no reason whatever to suppose that that is not the case.

Mr. C. C. Biswas: Has the attention of the Government been drawn to the comments in a recent number of the *Calcutta Weekly Notes* in which the legality of the arrest was questioned?

The Honourable Sir James Crerar: I do not think I have seen the particular article to which the Honourable Member refers.

Mr. K. C. Neogy: Were the papers relating to the charge against Mr. Sen Gupta ever laid before a High Court Judge?

The Honourable Sir James Crerar: No.

Mr. K. C. Neogy: Do I take it then that the Government have departed from the practice which was laid down during the Viceroyalty of Lord Reading in this matter, that no action against anybody would be continued under Regulation III unless the papers relating to the charge against him had been laid before at least one if not two High Court Judges, after the arrest had been made?

The Honourable Sir James Crerar: No; there was no undertaking to that effect and no such undertaking has been infringed.

Mr. K. C. Neogy: May I remind the Honourable Member of a speech delivered by Lord Reading in this House where he referred to that practice?

The Honourable Sir James Crerar: No; I am not aware of any such speech.

Mr. Arthur Moore: Is it not a fact that under Regulation III there is no charge?

The Honourable Sir James Crerar: That of course is true, if charge is used in the strict sense of the Procedure Code.

Mr. S. C. Mitra: May we take it that these cases are not laid before any Court or any Judges who have to give some opinion about the criminality or otherwise of the persons charged?

The Honourable Sir James Crerar: Government have not given any undertaking to submit all cases in which they take action under this Regulation to High Court Judges or any Judge.

Mr. K. C. Neogy: Do the Government of India apply their minds to these individual cases dealt with under Regulation III or do they leave it to the Provincial Governments?

The Honourable Sir James Crerar: The Government of India apply their minds to the particular cases in which action is taken.

Mr. S. C. Mitra: May I take it that the Government of India in this case means the Secretary and none else—no other Members of the Executive Council?

The Honourable Sir James Crerar: No, Sir.

Mr. Gaya Prasad Singh: May I know what is the offence for which Mr. Sen Gupta has been arrested?

The Honourable Sir James Crerar: I refer the Honourable Member to the Preamble to the Regulation.

Mr. Gaya Prasad Singh: The specific offence, I said. The Preamble is too comprehensive and wide.

FLAGS PERMITTED TO BE FLOWN IN INDIA.

200. ***Mr. Bhuput Sing:** (*a*) Will Government be pleased to state whether they have expressly put any ban on the flying of the national flag in India?

(*b*) If so, what is the reason for this action?

(*c*) Are they aware that the flag is not the flag of the Congress alone but has been accepted by almost every section of Indians to be the emblem of national unity in this country?

(*d*) Is it true that the flag has been forcibly pulled down at many places and the Union Jack put in its place? If so, what are the names of those places?

The Honourable Sir James Crerar: (*a*) and (*d*). I would refer the Honourable Member to the answer given on the 3rd February, 1932, to parts (*a*) and (*c*), respectively, of Mr. S. C. Mitra's question on the subject.

(*b*) Does not arise.

(*c*) No.

REPRESENTATIONS FROM RELIGIOUS LEADERS FOR THE RELEASE OF MR. GANDHI.

201. ***Mr. Bhuput Sing:** (*a*) Will Government be pleased to state whether it is a fact that 106 prominent religious leaders of America have cabled to the British Premier appealing for the release of Mahatma Gandhi and adoption of a policy of co-operation for the solution of the Indian problem?

(*b*) Is it a fact that a number of British evangelists and a man of letters of the eminence of Bertrand Russel have done the same thing?

(*c*) Are Government aware that Mr. Lansbury, the Labour Leader, and Commander Kenworthy have also condemned the present policy of repression in this country?

The Honourable Sir James Crerar: (*a*), (*b*) and (*c*). I have no information.

ADVANCE OF MONEY BY GOVERNMENT TO THE IMPERIAL GYMKHANA CLUB, NEW DELHI.

202. ***Mr. Lalchand Navalrai:** (*a*) Will Government be pleased to state the terms on which they advanced rupees five lakhs several years ago to the Imperial Gymkhana Club in New Delhi?

(*b*) Has the club, up to the present, fulfilled the terms of repayment on which this grant was made?

(*c*) Have Government any doubt as to the club's ability to repay the loan?

(*d*) How many European and how many Indian members belong to this club?

(*e*) Has any other club in New Delhi received any assistance from the Government of India?

The Honourable Sir George Schuster: (*a*) The loan of Rs. 5 lakhs was sanctioned in March, 1927, subject to the following conditions:

(1) that the amount of the loan with interest was repaid in five annual instalments of Rs. 8,500 each commencing on the 1st October, 1928, and 30 further annual instalments of Rs. 30,000 each commencing on the 1st October, 1933;

(2) that the club house and necessary appurtenances be erected and completed within two years, failure of which would involve certain penalties. The property to be insured against loss or damage by fire, etc., and mortgaged to Government until liquidation of the loan;

(3) that, subject to certain reservations, not less than 75 per cent. of the residential quarters erected should be reserved for the use of Government servants; and

(4) that Government should nominate a Government official, who is a member of the club, to serve on the Committee of Management.

(*b*) Yes.

(*c*) Presumably the Honourable Member refers to the results of the accounts for the last year, which show a deficit. These accounts have been examined by Government. The Club has undertaken certain retrenchments and with the exercise of due economy should be in a position to meet its liabilities.

(*d*) 280 Europeans and 56 Indians.

(*e*) No.

Mr. Lalchand Navalrai: Is there any likelihood that this liability will be discharged in a short time?

The Honourable Sir George Schuster: The Honourable Member will appreciate from the answer which I have given that the capital liability has not got to be repaid in a short time: because it extends over thirty annual instalments commencing on the 1st October, 1933. Therefore that allows a fairly long period for repayment.

REFORMS FOR THE NORTH-WEST FRONTIER PROVINCE.

203. ***Mr. B. Das:** With reference to Gazette Extraordinary of 25th January, 1932, regarding the constitution of the North-West Frontier Province as a Governor's province, will Government be pleased to state if the present constitutional reforms for the North-West Frontier Province are to be based on the present Government of India Act?

The Honourable Sir George Rainy: The reply is in the affirmative.

SCALE OF SALARIES FOR THE GOVERNOR, EXECUTIVE COUNCILLORS AND MINISTERS IN THE NORTH-WEST FRONTIER PROVINCE.

204. ***Mr. B. Das:** (*a*) Will Government be pleased to state if the scale of salaries fixed for the Governor and the Executive Councillors of the North-West Frontier Province are based on the existing standard of administration in India?

(*b*) If the reply to part (*a*) be in the affirmative, will Government be pleased to state the number of Executive Councillors and the number of Ministers that are being proposed to take office in the province of North-West Frontier?

(*c*) What will be the scale of salary of Ministers in the province?

The Honourable Sir George Rainy: (*a*) Yes.

(*b*) and (*c*). It will be seen from the Gazette Extraordinary of the 25th January, 1932, that only one Member of the Executive Council is contemplated for the North-West Frontier Province. The appointment of Ministers, their number and salary is governed by the provisions of section 52 of the Government of India Act. It is not contemplated, however, that there will be more than one Minister in the province.

Mr. B. Das: If the administration of the North-West Frontier Province, as the Honourable Member has just stated, is to be designed under the present Government of India Act, is the Honourable Member aware that the Bray Committee recommended that the Province would require only a little more than a lakh of rupees for its present administration?

The Honourable Sir George Rainy: I am afraid I did not follow my Honourable friend's question.

Mr. B. Das: Is the Honourable Member aware that the Sir Denys Bray Committee on Frontier Administration reported that the administration of the North-West Frontier Province would only require a little more than a lakh of rupees as additional financial assistance from the Central Government, and will the Honourable Member let us know the financial aid the Government contemplate making to that province?

The Honourable Sir George Rainy: I think clearly the Honourable Member should give notice of that.

Dr. Ziauddin Ahmad: Will the Member of the Executive Council be an official or a non-official?

The Honourable Sir George Rainy: I think, Sir, it is intended that he should be an official.

Dr. Ziauddin Ahmad: And there will be only one Minister, one official Executive Councillor and one Chief Commissioner, who will also be a Member of the Executive Council so that the non-official will be in the proportion of one to two?

Sir Abdur Rahim: Is there any model for this sort of arrangement? Does this state of things prevail in any other province?

The Honourable Sir George Rainy: I am not quite sure what state of things my Honourable friend refers to.

Sir Abdur Rahim: One Executive Councillor in a Governor's province and one Minister?

The Honourable Sir George Rainy: I am speaking without reference—I do not exactly recollect what the arrangement in Assam is,—but so far as I recollect I do not think there is an identical constitution of the Government in any other province.

Mr. K. Ahmed: In view of the statement made on the first day, the 25th January last, by His Excellency the Viceroy that the North-West Frontier Province will by no means be inferior to any other Governor's province in India, can Government face the music in contravention of their statement made again and again, and a copy of which has been published and distributed among the Members on the very first day when this Assembly was considering the motion of my friend Sir Hari Singh Gour on the 1st of February last, when the discussion was going or raising the general issues arising at the arrest and internment of Mr. Gandhi. The correspondence passed, etc. . . . . .

The Honourable Sir George Rainy: I am not sure that I have fully followed my Honourable friend's question, (Laughter), but if he suggests that the remarks of His Excellency to which he referred meant that the province was to have at least as many Members of Government as any other province, I think it would be a very strained interpretation indeed.

Mr. K. Ahmed: Sir, in view of the question put by Sir Abdur Rahim, the Leader of the Independent Party, and in view of the fact that the Governor General made a statement in this House,—and the Government of India have given publicity to it—giving an answer to Mahatma Gandhi that the Frontier Province hereafter will enjoy exactly the same status as other provinces in India, how do Government justify their statement of to-day made now by the Honourable the Leader of the House.

The Honourable Sir George Rainy: It cannot be exactly the same as all the other provinces because there are differences between provinces. . .

Mr. K. Ahmed: Is it not a fact that the answer given by the Leader of the House and the statement made by the Government of India are in contravention of their own statement made here, and in view of that fact do Government propose to enlighten this House if they propose to make any further statement in order to remove the clouds?

The Honourable Sir George Rainy: I do not admit the assumption made in my Honourable friend's question.

Sir Cowasji Jehangir: It is the opinion of Government that the suggested constitution of the North-West Frontier Province is in keeping with the statement made by His Majesty's Government at the Round Table Conference?

The Honourable Sir George Rainy: To what statement does my Honourable friend refer?

Sir Cowasji Jehangir: A statement was made at the Round Table Conference with regard to the North-West Frontier Province, which statement, I understand, was repeated in this House or at some Durbar in this country. I ask whether the suggested constitution for the North-West Frontier Province is in the opinion of Government in keeping with that statement?

The Honourable Sir George Rainy: I think the statement to which my friend refers covered two distinct matters. One was the position of the Frontier Province under the new constitution, and the other was the immediate establishment of a Governor's province in the North-West Frontier Province under the existing Act. The action now being taken is certainly in accordance with the latter part of the statement, and quite obviously also it is not the fulfilment of the earlier part of the statement.

Mr. Arthur Moore: May I ask whether the superiority and efficiency of a Government is in direct or in inverse ratio to the number of Members composing the Government?

Dr. Ziauddin Ahmad: Will the Government consider the desirability of appointing the Members of the Executive Council only for a limited period, till this new Government of India Act comes into operation?

The Honourable Sir George Rainy: Clearly, Sir, the appointment of Members of the Executive Council would not be a bar to the introduction of the new constitution in any circumstances.

Mr. B. V. Jadhav: May I know, Sir, whether there is any provision in the Government of India Act that the number of non-official Executive Councillors should be equal to the number of official Executive Councillors?

The Honourable Sir George Rainy: I am not aware of any such provision.

Mr. D. K. Lahiri Chaudhury: Is it a fact that the Government officers in the province who are administering the province are not capable of discharging their executive duties?

The Honourable Sir George Rainy: I am afraid I have not caught the Honourable Member's question.

Mr. D. K. Lahiri Chaudhury: Will the Honourable the Leader of the House inform us whether the executive officers in charge of the administration of the Frontier Province are quite capable of discharging their administrative duties?

The Honourable Sir George Rainy: They are quite capable of carrying out their administrative duties.

Mr. K. Ahmed: In view of the fact that the Government of India Act of 1919, which came into being as a result of the Montagu-Chelmsford Reforms, does not describe the size in its length and breadth of the kind of Government, that the Government of India are contemplating for the province, after the declaration made by the Honourable the Leader of the House, do Government propose to amend the Government of India Act of 1919 before they launch any reforms and the gentlemen proceed to the Frontier Province to make inquiries, and give effect to this kind of reform, because it is not contained in the Government of India Act? If the answer is in the negative (Laughter)—(*Some Honourable Members*: "Go on, go on, please"),—if the answer is in the negative, Sir, will Government please say under what procedure of law and statute or enactment they are going to give reforms of the kind enunciated by the Honourable the Leader of the House to the Frontier Province?

The Honourable Sir George Rainy: My answer, Sir, would be rather in the interrogative than in the negative, but I may say at once that the statute under which we are taking proceedings is the Government of India Act.

ALLOCATION OF SEATS IN THE INDIAN LEGISLATURE FOR THE NORTH-WEST FRONTIER PROVINCE.

205. ***Mr. B. Das:** (*a*) Has the attention of the Government of India been drawn to the statement published in the press that the Frontier Reforms Advisory Committee has recommended that the North-West Frontier Province will be allocated four seats in the Indian Legislative Assembly and two seats in the Council of State?

(*b*) Are these recommendations in accordance with the present practice in other provinces?

(*c*) Will Government be pleased to state the principles that govern allocation of the number of seats for the provinces in the Central Legislature?

(*d*) Do Government wish to make any departure in the case of the North-West Frontier Province from these? If any departure is contemplated, do Government propose to make similar changes in other advanced provinces?

The Honourable Sir George Rainy: With your permission, Sir, I will deal with questions Nos. 205 and 206, together.

Government have seen the press report referred to. The Chief Commissioner's recommendations have just been received and are under consideration. I am not therefore in a position to attempt to reply in detail on the point raised by the Honourable Member.

ALLOCATION OF SEATS IN THE INDIAN LEGISLATURE FOR THE NORTH-WEST FRONTIER PROVINCE.

†206. ***Mr. B. Das:** (*a*) Will Government be pleased to state if the following table does not give the true position of seats in the Central Legislature of different provinces?

Province.	1931 census.	Assembly.	Council of State.
Assam	87,84,000	4	1
Central Provinces	1,54,72,000	6	2
Punjab	2,35,80,000	12	4
United Provinces	4,84,23,000	16	5
Bihar and Orissa	3,75,90,356	12	3

(*b*) Is it not a fact that 1931 census gives the population of the North-West Frontier Province as 24,23,000? On what basis do Government propose to allocate four seats in the Assembly and two seats in the Council of State to the North-West Frontier Province people?

MEMBERS OF THE FRONTIER REFORMS ADVISORY COMMITTEE.

07. ***Mr. B. Das:** Are there any official or non-official members on the Frontier Reforms Advisory Committee who have had previous experience of the working of the existing reforms in advanced provinces? If so, who are those?

The Honourable Sir George Rainy: Government have no detailed information in this matter, which is one entirely for the Chief Commissioner.

ALLEGATIONS AGAINST THE DEPUTY CHIEF ACCOUNTS OFFICER, GENERAL BRANCH, EAST INDIAN RAILWAY.

208. ***Dr. Ziauddin Ahmad:** (*a*) Is it a fact that certain complaints were made against the Deputy Chief Accounts Officer, General Branch, East Indian Railway, about July, 1931?

(*b*) Is it a fact that a committee of enquiry was appointed by Government to investigate the allegations?

(*c*) Who were the members of the enquiry committee? Did it include an immediate subordinate of the officer concerned?

(*d*) Did any member of the Railway Board scrutinise the entire proceedings?

(*e*) Will Government be pleased to lay all the relevant papers dealing with the enquiry on the table? If not, why not?

(*f*) Is it a fact that the persons who gave evidence in the enquiry were discharged in spite of the assurances given to them otherwise?

(*g*) Is it a fact that their appeals were not listened to by the Operating Department on the ground that these persons belonged to the Accounts Department, and by the Accounts Department on the plea that they belonged to the Operating Department?

(*h*) Do Government propose to settle the question once for all and instruct the Agent accordingly?

(*i*) Are Government prepared to consider the claims of all these officers in the light of the decisions in the retrenchment scheme?

†For answer to this question, see answer to question No. 205.

Sir Alan Parsons: (*a*) Yes.

(*b*) No. The Controller of Railway Accounts was asked to investigate the complaints. He arranged for an investigation by the Chief Accounts Officer, East Indian Railway.

(*c*) As I have already explained, there was no enquiry committee, but the Chief Accounts Officer was assisted in his enquiry by Mr. Ogden, a senior Accounts Officer of the East Indian Railway, and Mr. Nehru, Deputy Chief Auditor, East Indian Railway. The answer to the second part of the question is in the negative.

(*d*) Yes.

(*e*) No. It is not in the public interest to publish the records of departmental enquiries in such a matter.

(*f*) Some of the persons who gave evidence in support as well as against the allegations were men employed in temporary posts of ticket checkers in the Traffic Accounts Branch. The whole of this temporary establishment was subsequently disbanded and all the men employed had to be discharged.

(*g*) No.

(*h*) There is no question that remains for settlement.

(*i*) The men referred to had no claims for retention after the work, for which they were engaged, had ended.

Dr. Ziauddin Ahmad: Is it not a fact that these persons were first given an assurance by the Government official who made the enquiries to give evidence that nothing would happen to them afterwards they were punished?

Sir Alan Parsons: The answer to that, as far as my knowledge goes, is in the negative.

Dr. Ziauddin Ahmad: Will the Honourable Member please make enquiries to find out whether what I am saying is true or not?

Sir Alan Parsons: I have given the Honourable Member my answer after having personally made very full enquiries.

Dr. Ziauddin Ahmad: Will the Honourable Member please make enquiries and find out whether that statement of mine is correct?

Sir Alan Parsons: I do not propose to make any further enquiries.

Dr. Ziauddin Ahmad: It means this allegation that the people were first encouraged to give evidence and afterwards were chastised remains a fact and the Government are not going to make any further enquiries about it.

TITLES FOR HINDUS AND MUSSALMANS.

209. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Mr. Muhammad Anwar-ul-Azim): (*a*) Will Government please state if the title of Diwan Bahadur is awarded both to Hindus and Muslims?

(*b*) If so, will Government please state the total number of the recipients of this title separately for the Hindus and Muslims?

(c) If it is reserved for Hindus only, will Government please state what is the corresponding title for Muslims?

Sir Evelyn Howell: (a) The title of Diwan Bahadur can be conferred on a Muslim; but it is not so conferred in practice, as it is generally regarded as a purely Hindu title.

(b) I would refer the Honourable Member to the Quarterly Civil Lists issued by Local Governments and Administrations, which contain the required information. The Government of India are not aware of any instance in which the title has been conferred on a Muslim in recent years.

(c) The title is not actually reserved for Hindus, and it could be conferred on Muslims also, if there were reason to believe that it would be acceptable to them.

Mr. A. Hoon: Will the Government be pleased to consider the desirability of conferring some sort of title on Mr. Anwar-ul-Azim?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. Personal remarks are not permitted.

Sir Evelyn Howell: (To Mr. Hoon). Yes, certainly.

Dr. Ziauddin Ahmad: Is the Honourable Member aware that Mr. Anwar-ul-Azim was not putting the question on his behalf but on behalf of the Muslim community?

TITLES FOR HINDUS AND MUSSALMANS.

210. ***Mr. Muhammad Anwar-ul-Azim:** (a) What is the corresponding title for a Muslim in Bengal equivalent to that of a Rajah Bahadur?

(b) Is there any corresponding title for Muslims to that of a Maharaja or a Maharaja Bahadur?

Sir Evelyn Howell: (a) The equivalent title would be "Nawab Bahadur" or "Nawab".

(b) The corresponding Muslim titles are—"Nawab" and "Nawab Bahadur". There are however instances in which the titles of "Maharaja" and "Raja" have been conferred on Muslims.

REPRESENTATION OF MUSLIMS IN THE RAILWAY SERVICES.

211. ***Mr. M. Maswood Ahmad** (on behalf of Seth Haji Abdoola Haroon): (a) Is it not a fact that Government appointed an officer on special duty to prepare a report on the adequate representation of the Muslims and other minority communities in the railway services?

(b) Has the officer submitted any report? Will Government be pleased to lay a copy of the report on the table?

Sir Alan Parsons: (a) Yes.

(b) The report is expected to be submitted in a week or so. Copies of it will be placed in the Library.

Mr. M. Maswood Ahmad: Are Government aware whether the report has been completed or not?

Sir Alan Parsons: My information is that the report is not yet quite complete but that it will be submitted in the course of a week or so.

Dr. Ziauddin Ahmad: Is the Honourable Member certain of this fact?

Mr. President: Order, order.

Mr. M. Maswood Ahmad: Is it a fact that up to the 9th February the report was not completed?

Sir Alan Parsons: My information is that the report is now being prepared but that it is not yet quite complete. That is the information given me by the branch of the Railway Board's office which deals with this matter.

Mr. M. Maswood Ahmad: Have Government informed some Member that the report is complete but that it has not yet been submitted to the Government?

Sir Alan Parsons: I am aware of no such information having been given to any Member of this House by the Government.

ABOLITION OF THE POST OF ASSISTANT CONSERVANCY INSPECTOR AT THE CENTRAL TELEGRAPH OFFICE.

212. ***Mr. M. Maswood Ahmad** (on behalf of Seth Haji Abdoola Haroon): (a) Will Government be pleased to state whether it is a fact that the post of Assistant Conservancy Inspector at the Central Telegraph Office, New Delhi, carrying a pay of Rs. 40—1—50 has been abolished and that the present incumbent has been served with a notice of discharge?

(b) Is it a fact that the Director-General of Posts and Telegraphs has decided to entertain one Care-taker at the Central Telegraph Office, New Delhi, on a pay of Rs. 100 per mensem in place of the Assistant Conservancy Inspector?

(c) Is it a fact that formerly there was one Conservancy Inspector on Rs. 100 per mensem and one Assistant Conservancy Inspector on Rs. 40—50 at the Central Telegraph Office, New Delhi, and that since the death of the Conservancy Inspector in January, 1931, the present Assistant Conservancy Inspector has been carrying on all the duties alone?

(d) If the reply to part (c) be in the affirmative, will Government be pleased to state whether any allowance or increased remuneration was given to the Assistant Conservancy Inspector in consideration of his increased responsibilities and of the large saving to Government on account of the pay of the deceased Conservancy Inspector? If not, why not?

(e) If the replies to parts (a), (b), and (c) be in the affirmative, will Government be pleased to state whether an economy will be effected by the discharge of a low-paid official and entertaining an official with a higher pay in these days of financial stringency? If not, will Government be pleased to state reasons for adopting that course?

Mr. T. Ryan: (a) Yes.

(b) No. There were two posts—one of Conservancy Inspector on Rs. 100 and one of Assistant Conservancy Inspector on Rs. 40—50. The latter has been abolished from 15th January, 1932.

(*c*) The reply to the first part is in the affirmative and that to the second part in the negative.

(*d*) and (*e*). Do not arise.

PAY OF THE CONSERVANCY INSPECTOR OF THE TELEGRAPH OFFICE AT SIMLA.

213. ***Mr. M. Maswood Ahmad** (on behalf of Seth Haji Abdoola Haroon): Is it a fact that the Conservancy Inspector in the Telegraph Office at Simla draws a pay of Rs. 100 *plus* Rs. 20 as hill allowance?

(*b*) If the reply to part (*a*) be in the affirmative, will Government be pleased to state whether they have considered the question of bringing under reduction the post of Conservancy Inspector at Simla and employing a lower paid care-taker like the Assistant Conservancy Inspector at New Delhi instead?

(*c*) Do Government propose to retain the post of Assistant Conservancy Inspector at New Delhi till such time as the present incumbent is not provided elsewhere? If not, why not?

Mr. T. Ryan: (*a*) Yes.

(*b*) Yes.

(*c*) No. The displaced Assistant Conservancy Inspector being illiterate, it was not possible to provide him with another post, and he was accordingly given three months' notice of discharge.

PERCENTAGE OF APPOINTMENTS HELD BY INDIAN CHRISTIANS ON THE SOUTH INDIAN RAILWAY.

214. ***Dr. F. X. DeSouza:** (*a*) Are Government aware that the percentage of Indian Christians in the several cadres of railway service in the South Indian Railway is 1 per cent. in the officer's, 2 per cent. in the upper subordinates' and 6 per cent. in the lower subordinates' cadres while the Brahmins hold more than 50 per cent. of all appointments in the superior and subordinate cadres?

(*b*) Is it not a fact that in point of numbers the Indian Christians are more than double of the Brahmin community in Southern India and in point of literacy, they hold the first place, the census figures for 1921 showing per mille an average for Indian Christians (men and women) of 235 and 123, for Hindus 149 and 15, and for Mussalmans 74 and 18?

(*c*) What are the reasons why the claims of the Indian Christian community have been overlooked, causing this disparity?

(*d*) Are Government prepared to redress this inequality by appointing qualified Indian Christians to future vacancies, by selecting pupil candidates where available from that community for the various departments and by affording Indian Christians already in the subordinate service the chance to rise to the superior grade?

Sir Alan Parsons: (*a*) Government are not aware what the percentages of Indian Christians on the South Indian Railway are.

(*b*) The reply is in the negative.

(*c*) and (*d*). Recruitment of staff, both superior and subordinate, for the South Indian Railway is a matter which rests with the South Indian Railway Company. The principles enunciated by the Government of India for recruitment to State-managed Railways in the matter of redressing communal inequalities have been recommended from time to time to the Company-managed Railways including the South Indian Railway.

Dr. F. X. DeSouza: Do the Government of India take any action when the companies do not act up to the recommendations made by them with regard to communal representation on the staff?

Sir Alan Parsons: I may explain to the Honourable Member that the Government of India have no power whatsoever to interfere with the recruitment of persons from particular communities on the Company-managed Railways. They can only recommend to them to follow more or less the same policy as that which the Government of India adopt.

Dr. F. X. DeSouza: If they fail what is the remedy?

Sir Alan Parsons: None, Sir.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member inform the House whether or not it is a fact that all Company-managed Railways have subscribed *in toto* to the rules of the Government of India concerning Indianisation of railways?

Sir Alan Parsons: I am not here dealing with the matter of Indianisation; I am dealing with the matter of proportional representation of different Indian communities.

Lieut.-Colonel Sir Henry Gidney: Arising out of that reply, will the Honourable Member please inform this House whether the Railway Board have agreed in principle to see that all communities have an adequate share in appointments on all railways, State and Company-managed?

Sir Alan Parsons: I would not like to express the policy of the Government in exactly those words. But the Honourable Member is already aware of the policy of the Government in that matter,—that is to say, that steps should be taken to correct the excessive preponderance of any one community in the railway services.

Lieut.-Colonel Sir Henry Gidney: Is the Honourable Member aware that there are records in the office of the South Indian Railway which go to prove without doubt that almost 90 per cent. of the responsible subordinate appointments, *e.g.*, Superintendents, Head Clerks, etc., in all the offices of that railway are occupied by Brahmins?

Sir Alan Parsons: I am not aware of that fact, and I am somewhat surprised that the Honourable Member should be aware of it.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member kindly refer to the Board of Directors in London, or the Agent of that Railway to corroborate my statement, which is a fact?

Sir Alan Parsons: I am not prepared to make any reference to the Agent, South Indian Railway, on this subject.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member please carry out his duties in that matter?

Mr. President: Order, order.

Mr. B. Das: Is not the Honourable Member making a serious charge against the Brahmin supremacy in Madras? (Laughter.)

PAY OF THE LITIGATION OFFICER, NORTH WESTERN RAILWAY.

215. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Jagan Nath Aggarwal): (*a*) With reference to my question No. 360 of 16th September, 1931, and the reply thereto given by the Railway Board, will Government kindly inform the House if it is a fact that the Litigation Officer of the North Western Railway who does not possess legal qualifications is drawing Rs. 800 per mensem?

(*b*) Is it also a fact that the four Court Inspectors who are trained in law and work under him only draw Rs. 160 to Rs. 200 per mensem?

(*c*) Will Government kindly inform the House of the training and qualifications possessed by the Litigation Officer which enable him to supervise the work of the four Court Inspectors?

(*d*) Will Government kindly inform the House of the extra duties performed by the Litigation Officer as a Commercial Officer and the amount of time he spends on such duties?

(*e*) Will Government kindly inform the House if they have considered whether such duties cannot be performed by persons possessing legal qualifications?

Sir Alan Parsons: (*a*) The present Litigation Officer has been drawing Rs. 750 per mensem from the 10th August, 1927, and gets personal special pay of Rs. 50 per mensem.

(*b*) The four Court Inspectors are on an incremental scale of Rs. 200—10—270.

(*c*) The holder of the post has had long experience in railway commercial work and in arranging for the conduct and disposal of litigation work connected with claims against the Railway.

(*d*) The commercial work performed by the Litigation Officer consists of disposal of cases of claims arising out of accidents both in connection with personal injuries to the travelling public and damage or loss to goods and parcels carried over the railway. The work in this respect takes up a very large part of his time.

(*e*) The question has been considered and it is not proposed to disturb the existing arrangements which have proved satisfactory.

APPOINTMENT OF CERTAIN OFFICERS IN THE RAILWAY SERVICE.

216. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Jagan Nath Aggarwal): (*a*) With reference to my question No. 364 (regarding appointment of Railway officers "outside their own line of qualifications") and the reply given thereto on the 16th September, 1931, will Government kindly inform the House if the practice of leaving the higher offices referred to in the question open to all branches of the railway services is not opposed to the principle underlying the divisional scheme?

(*b*) Are Government aware that such offices in other Departments of the Government of India are reserved for the members of the Finance Department and are not open to persons possessing only technical qualifications?

Sir Alan Parsons: (*a*) and (*b*). The answer is in the negative.

PROMOTION OF MR. S. R. WOODMORE, OFFICIATING CHIEF DRAFTSMAN, NORTH WESTERN RAILWAY.

217. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Jagan Nath Aggarwal): With reference to my question No. 361 (regarding officiating promotion of Mr. Woodmore at the Moghulpura Railway Workshops) and its reply thereto dated the 16th September, 1931 (communicated to me by the Railway Board), will Government kindly state:

(*a*) if it is a fact that Mr. S. R. Woodmore, Officiating Chief Draftsman, North Western Railway, was a B Class apprentice in the Maclagan Engineering College, Mughalpura, and not even an A Class apprentice;

(*b*) if it is also a fact that the only training this person possessed was a course of drawing in Production Office for a period of five months; and

(*c*) if it is also a fact that a large number of A Class Apprentices of the Maclagan Engineering College were available in the office for such a job and also persons holding the diploma of Associate Member of Technical Engineers?

Sir Alan Parsons: Information has been called for from the Agent, North Western Railway, and I will communicate with the Honourable Member on its receipt.

HINDUS AND MUHAMMADANS EMPLOYED AS DRIVERS, ETC., ON THE NORTH WESTERN RAILWAY.

218. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Jagan Nath Aggarwal): Will Government please place on the table a statement showing the number of Hindus and Muhammadans serving as Drivers, Shunters, Firemen in Loco. Sheds in each Division of the North Western Railway and Fitters and Mistries in Loco. and Carriage Shops on the North Western Railway?

Sir Alan Parsons: Government regret that they are not prepared to supply figures of communal representation regarding individual offices or classes of establishments.

OFFICERS' AND CLERKS' GRADES ON THE NORTH WESTERN RAILWAY.

219. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Jagan Nath Aggarwal) (*a*) Arising out of my starred question No. 365, dated the 16th September 1931 (regarding officers' and clerks' grades on the North Western Railway), and the reply thereto, are Government aware that owing to the hug

retrenchment in the North Western Railway and the block in promotions, considerable dissatisfaction is felt by the employees on account of their being placed in no less than seven grades?

(*b*) Do Government propose to consider the desirability of amalgamating some of the grades as is the case in other Commercial Departments like the Posts and Telegraphs?

Sir Alan Parsons: (*a*) and (*b*). The answer is in the negative.

PROMOTIONS IN LEAVE VACANCIES ON THE NORTH WESTERN RAILWAY.

220. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Jagan Nath Aggarwal): (*a*) With reference to the answer to starred question No. 777, dated the 23rd September, 1931, will Government kindly state the individual cases where surplus staff were provided in each section in the case of the North Western Railway Headquarters employees who went on privilege and medical leave?

(*b*) Are Government aware that previously in the Headquarters Office North Western Railway ladder promotions were given in case of privilege and medical leave and that such practice prevails even now in divisional offices and among offices of the North Western Railway? Do Government propose to consider the desirability of re-introducing the system in the Headquarters office as well?

Sir Alan Parsons: (*a*) Government regret that they are not prepared to supplement with particulars of individual cases the information already given to the Honourable Member.

(*b*) It is within the competence of the Railway Administration to make such arrangements in this matter as it may consider most suitable for particular offices, and Government do not propose to intervene. A copy of the Honourable Member's question and of this reply will however be sent to the Agent, North Western Railway.

REORGANISATION OF THE OFFICE OF THE CHIEF PERSONNEL OFFICER, NORTH WESTERN RAILWAY.

221. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Jagan Nath Aggarwal): (*a*) In view of my question No. 358 (regarding appointment of Chief Personnel Officer, North Western Railway) and the reply thereto given on the 16th September, 1931, will Government kindly inform the House whether the organisation of the office and staff of the Chief Personnel Officer, North Western Railway, has been since reviewed and, if so, with what result?

(*b*) Are Government aware that owing to the fall in traffic and retrenchment of staff, the complexity of establishment and labour problems has considerably diminished on the North Western Railway as in other places in the country and that a reorganisation with a view to economy is urgently called for?

Sir Alan Parsons: (*a*) The matter is under review at present.

(*b*) On the contrary new problems and fresh complexities have resulted owing to the necessity of making retrenchments of staff on a large scale.

RETRENCHMENT IN THE OFFICE OF THE CHIEF ACCOUNTS OFFICER, NORTH WESTERN RAILWAY.

222. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Jagan Nath Aggarwal): (*a*) Will Government please lay on the table a comparative statement showing:

(i) total number of subordinate staff employed on 1st January, 1931, under the Chief Accounts Officer, North Western Railway, Lahore, on the one side and the following offices on the other:

(1) Agent, North Western Railway Lahore's Office including Divisional Superintendent's offices proper, but excluding the line or workshop staff,

(2) Chief Accounts Officer's Office, Great Indian Peninsula Railway, and

(3) Chief Accounts Officer's Office, East Indian Railway,

(ii) the number of men brought under retrenchment from 1st January, 1931, to date in each of these offices;

(iii) further proposed retrenchment in each of these offices;

(iv) number of subordinate staff now employed in those offices; and

(v) percentage of retrenched staff, to the total strength employed before 1st January, 1931, in each of these offices?

(*b*) If the percentage of retrenched staff in the Chief Accounts Officer North Western Railway Lahore's office is greater than that in the other offices, will Government please state reasons for this discrimination?

(*c*) Are Government aware that after this retrenchment in the Chief Accounts Officer's office, North Western Railway, Lahore, the existing staff has been badly pressed with the extra rush of work, and the staff has to sit late hours?

Sir Alan Parsons: (*a*) and (*b*): On the 1st January, 1931, there were 1,416 subordinates under the Chief Accounts Officer of the North Western Railway; subsequently 33 men were transferred from the Locomotive Department to the Accounts Department with cost accounting work; 143 men have been discharged, and there are now 1,306 subordinates in the North Western Railway Accounts Office. The percentage of the staff discharged to the total strength employed before the 1st of January, 1931, is just over 10 per cent. I must explain that reduction of staff as a measure of retrenchment must be determined solely by the requirements of each individual office. It would be quite impossible to reduce all offices in the same proportion; so that a comparison with the figures for the other offices mentioned by the Honourable Member (which are not available) could serve no useful purpose. Actually, according to present intentions, it is expected that a further reduction can be effected of 83 men in the North Western Railway Accounts Office, 169 men in the Accounts Office of the East Indian Railway and 6 men in the Accounts office of the Great Indian Peninsula Railway.

(*c*) I am informed that this is not so.

RETRENCHMENT IN THE OFFICE OF THE CHIEF ACCOUNTS OFFICER, NORTH WESTERN RAILWAY.

223. *Mr. Gaya Prasad Singh (on behalf of Mr. Jagan Nath Aggarwal): Is it a fact that the retrenchment in the office of the North Western Railway Chief Accounts Officer's office is being carried out on a very arbitrary basis, and the sectional officers are not consulted as to the suitability or otherwise of the number of staff to be retrenched from their branches, but the higher authorities only give a notice to the sectional officers, that such and such will be their share of retrenchment?

Sir Alan Parsons: The answer is in the negative.

UNSTARRED QUESTIONS AND ANSWERS.

BENGALIS APPOINTED ON THE STAFF OF THE ROUND TABLE CONFERENCE COMMITTEES.

33. Mr. S. C. Mitra: (*a*) Will Government be pleased to state the number of Bengalis taken in the recent recruitment that took place for the provision of new hands in the following committees of the Indian Round Table Conference:

(i) Federal States Committee,

(ii) Federal Franchise Committee, and

(iii) Federal Finance Committee?

(*b*) Will Government be pleased to state the names of the Superintendents and Assistant Secretaries of the above-mentioned committees?

The Honourable Sir George Rainy: I lay on the table a statement containing the information asked for by the Honourable Member.

Statement.

Franchise Committee:

(*a*) Two.

(*b*) Superintendent—Mr. Bazlul Karim.
Assistant Secretaries—1. Mr. S. P. Thompson, I.C.S.. 2. Mr. F. H. T. Ward.

Indian States Enquiry Committee:

(*a*) *Nil.*

(*b*) Superintendents—1. Mr. T. A. Coates. 2. Mr. W. J. Chaplin.
There is no Assistant Secretary.

Federal Finance Committee:

(*a*) *Nil.*

(*b*) Superintendent—Kunwar Sardar Singh.
There is no Assistant Secretary.

EDUCATION AND TRAINING OF CERTAIN EMPLOYEES IN THE EAST INDIAN RAILWAY WORKSHOP AT LILLOOAH.

34. Mr. S. C. Mitra: Will Government please lay on the table a statement of the number of Europeans, Anglo-Indians, and Indians appointed as Foremen, Assistant Foremen, Mechanics (Chargemen), and Draughtsmen in the East Indian Railway Workshop, Lillooah, with their names, general and technical education and particulars of their training, from 1929 to 1931?

Sir Alan Parsons: The available information is given in the East Indian Railway Classified List of Subordinate Staff, a copy of which is in the Library.

COMMUNITIES OF CHARGEMEN APPOINTED IN THE EAST INDIAN RAILWAY WORKSHOP AT LUCKNOW.

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

(*a*) the number of vacancies which occurred in the grade of Chargemen in the East Indian Railway Workshop (Carriage and Wagon Department), Lucknow, from 1928 to 1931;

(*b*) the number of vacancies filled up by the *ex*-apprentices of Lillooah Workshop and by outsiders; and

(*c*) the number of Europeans, Anglo-Indians and Indians taken in as such?

Sir Alan Parsons: I have called for information from the Agent, East Indian Railway, and will communicate with the Honourable Member on its receipt.

ALLEGED RACIAL DISCRIMINATION IN CERTAIN APPOINTMENTS AT JAMALPUR.

36. Mr. S. C. Mitra: With reference to the answer to Mr. Amar Nath Dutt's starred question No. 1313 (*a*) of 16th November, 1931, will Government please state the reason why Messrs. Smith and Sim were selected for heat treatment training at Jamalpore and no Indian was given that chance?

Sir Alan Parsons: Messrs. Smith and Sim were first selected for this training as the most suitable persons available.

STATEMENT LAID ON THE TABLE.

ACTION TAKEN ON RESOLUTIONS ADOPTED BY THE LEGISLATIVE ASSEMBLY.

The Honourable Sir George Rainy: Sir, I lay on the table the information promised in reply to starred question No. 105 asked by Mr. Rahimtoola M. Chinoy on the 3rd February, 1932, regarding the action taken on each of the Resolutions adopted by the Legislative Assembly during 1931.

12 Noon.

Statement showing Resolutions adopted by the Legislative Assembly during 1931 and action taken by Government thereon.

Serial No.	Date on which moved.	By whom.	Subject of Resolution.	Department concerned.	Action taken by Government.
1	28th January, 1931 .	The Hon'ble Sir George Rainy.	Import duties on galvanised iron and steel pipes and sheets.	Commerce . .	Action has been taken as recommended in the Resolution.
2	29th January, 1931 .	Mr. K. C. Roy . .	The Round Table Conference	Home . .	In accordance with the promise given by the Honourable the Leader of the House a Government motion to the effect that Parliamentary papers connected with the Round Table Conference be taken into consideration was debated in the Legislative Assembly on the 2nd and 7th March, 1931.
3	12th February, 1931 .	Mr. Bhuput Sing .	Import duty on Vegetable Ghee.	Commerce . .	No action has been taken on this Resolution.
4	1st April, 1931 . .	The Hon'ble Sir George Rainy.	Additional payment for rails to the Tata Iron and Steel Co.	Commerce . .	Action has been taken as recommended in the Resolution.
5	1st April, 1931 . .	The Hon'ble Sir George Schuster.	Distribution of the proceeds of the duty on foreign salt.	Finance . .	The principle mentioned in the first two parts of the Resolution regarding the apportionment of the proceeds from the additional import duty on foreign salt has been accepted by the Provincial Governments and the distribution of the 7/8ths of the duty collected up to the end of September, 1931, has already been made on a tentative basis pending the acceptance by these Governments of the details on which the distribution has been made. The attention of the Provincial Governments concerned has also been drawn to the matter as suggested in third part of the Resolution.
6	1st April, 1931 . .	The Hon'ble Sir George Schuster.	Appointment of an Advisory Committee on Retrenchment.	Finance . .	A Committee (Retrenchment Advisory Committee) was appointed in accordance with the Resolution.
7	1st April, 1931 and 3rd October, 1931.	Mr. J. A. Shillidy .	Draft Convention regulating hours of work in offices, hotels, etc.	Industries and Labour.	The Resolution was accepted by the Governor General in Council and necessary intimation given to the International Labour Office and the League of Nations.
8	17th September, 1931.	Mr. Amar Nath Dutt .	Position of High Courts in the future constitution of India.	Home . .	A copy of the Resolution and of the Debate was forwarded to the India Office on the 24th September, 1931, for the information of the Secretary of State and His Majesty's Government.
9	3rd October, 1931 .	Mr. J. A. Shillidy .	Expenditure on roads .	Industries and Labour.	The Government of India have taken action in certain cases where local Governments have applied for diversion of their shares in the road development account to maintenance, and are prepared to take similar action in other cases where such action proves to be justified.

Statement showing Resolutions adopted by the Legislative Assembly during 1931 and action taken by Government thereon—contd.

Serial No.	Date on which moved.	By whom.	Subject of Resolution.	Department concerned.	Action taken by Government.
10	3rd October, 1931	The Hon'ble Sir George Rainy.	Purchase of the Bengal and North Western and Rohilkund and Kumaon Railways.	Railway	Negotiations are proceeding with the companies concerned.
11	3rd October, 1931	The Hon'ble Sir James Crerar.	Draft Convention on forced or compulsory labour.	Home	The Resolution as moved on behalf of Government was adopted in an amended form. Local Governments and Administrations have been asked to give practical effect to the Resolution adopted by the House and to secure the appropriate amendment of such local enactments as may be found to be necessary and to issue such executive orders as may be deemed advisable to secure the objects in view. The Government of India are themselves taking such action as may be necessary to amend Acts of the Indian Legislature which permit the employment of forced or compulsory labour for private or public purposes. Copies of the proceedings and the Resolution and the letters sent to local Governments, etc., have also been forwarded to the Secretary of State for information and communication to the Director, International Labour Office.

RESOLUTION *RE* ESTABLISHMENT OF A SUPREME COURT IN INDIA.

Mr. B. R. Puri: (West Punjab: Non-Muhammadan): Sir, the Resolution which stands in my name and which I have the privilege to move runs as follows:

"This Assembly recommends to the Governor General in Council to take early steps to secure that a Supreme Court is established in India with power—

(*a*) to interpret and uphold the constitution;

(*b*) to act as a court of final criminal appeal against all sentences of death;

(*c*) to act as a revising court in specified serious cases;

(*d*) to hear civil appeals now heard by His Majesty's Privy Council; and

(*e*) generally to carry out the work at present entrusted to His Majesty's Privy Council;

provided that such court shall not affect His Majesty's prerogative safeguarded in the constitutions of Canada, Australia, and South Africa."

Sir, I feel that I owe an explanation to a certain section of my Honourable colleagues who regard this Resolution at the present moment as an inopportune one. The reason which they assign for this view is that this subject is already pending before the Round Table Conference, and that, being a matter which is *sub judice*, it would not be opportune for us to discuss on the floor of this House the same subject when the final decision of the question rests with the Round Table Conference. Sir, the fact that this matter is pending before the Round Table Conference is the very reason for which I feel justified in moving this Resolution before this House. The Round Table Conference is not in our confidence and we are not in the confidence of the Round Table Conference either. We have got no voice there, and although we have got some esteemed friends who are taking part in the deliberations there, none the less we cannot claim that they are our representatives in that body. Therefore nobody need grudge our right and privilege in expressing our own views on certain subjects in the hope—it may be a forlorn hope—that those views might possibly reach the proper quarters. Therefore, for the very reason which is now being raised for not discussing the subject, I feel perfectly justified in placing my own views before this House in the hope that the House will accept the same.

Now, so far as the creation of a Supreme Court is concerned, the principle of it has already been conceded by the Round Table Conference. So far as the constitutional aspect of the Federal Court is concerned, that Court would be no doubt a part of the constitution itself. It has got to be, because no constitution could be properly worked unless and until there is a body of competent judges constituting the Federal Court, to uphold and safeguard that constitution. With regard to the creation of a Supreme Court, this matter also came up before the Round Table Conference, and in the proceedings of the second Round Table Conference the subject is exhaustively dealt with. We are not so much concerned in the present Resolution with the creation of a Federal Court, because, as I have already submitted, it has already been conceded by the Round Table Conference, and it is going to be part and parcel of the constitution itself. When the new reforms come in, the Federal Court must come in also. And all constitutional matters and questions will have to be adjudicated upon by that body. The question which immediately concerns us at the present

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moment is one with regard to the creation of a Supreme Court. Now, Sir, the functions which this Supreme Court, according to the present Resolution, is intended to discharge and carry out are first of all to act as a court of final criminal appeal against all sentences of death, to act as a revising court in specified serious cases, and to hear civil appeals now heard by His Majesty's Privy Council. With regard to the civil appeals, it was conceded during the discussions in the Round Table Conference that, whether you call it by the name of "Federal Court" or "Supreme Court", the creation of some sort of court was absolutely essential in order that it should act as a final court of appeal, be it civil or criminal, but the need for the creation of a court of that description was conceded and that, I submit, was in accordance with the constitutions which have been granted to the other big Dominions of the Crown, namely, South Africa, Australia and Canada. In all those three Dominions we find that Supreme Courts have been established and they are the final courts of appeal, both on the civil as well as on the criminal side. Therefore so far as the Resolution goes, we are not asking anything more or anything beyond what has already been conceded in the case of the other Dominions, and which as I have already submitted has been recognised as an absolutely essential part of the constitution, even by the present Round Table Conference, in their discussion regarding the constitution of such a court. The only drawback and the only point which was brought before the Round Table Conference regarding which there might be a difference of opinion is with regard to the view expressed during the said discussion that that would promote a multiplicity of appeals. If the appeals lay to the Supreme Court locally instead of to the Privy Council, then according to the views of a certain section of the Round Table Conference there would be a multiplicity of appeals, which would not conduce to a happy state of affairs. In dealing with this question they say this, and I invite the attention of this Honourable House to their view:

"A strong opinion was expressed in the Committee that the time"

—I am now referring to paragraph 63, page 19 of the report of the Second Session of the Indian Round Table Conference—

"That the time had come for the creation of a Supreme Court for British India to which an appeal should lie from all Provincial High Courts in substitution for a direct appeal to the Privy Council. Appeals from the Court would lie to the Privy Council only with the leave of the Court or by special leave. The creation of such a Court is in the natural course of evolution, and the Committee adopt the suggestion in principle."

—so that you will be pleased to see that the principle is conceded:

"A difference of opinion, however, manifested itself on the method whereby such a Court should be brought into existence. There was a strong body of opinion among the British Indian Delegates to the effect that the Federal Court should be invested with this further jurisdiction, the proposal being that the Court should sit in two Divisions—one dealing with Federal matters and the other with appeals on all other matters from the Provincial High Courts. Other Members of the Committee and, generally speaking, the States representatives, dissented from this view and were of the opinion that there should be a separate Supreme Court for British India on the ground that the Federal Court would be an all-India Court, while the Supreme Court's jurisdiction would be confined to British India; the mass of work with which it would have to cope would obscure its true functions as a Federal Court, to that extent, would detract from its position and dignity as a Federal organ. It is no doubt" (*and it is this sentence which I am emphasizing and particularly one which I want the Honourable House to note*) "It is no doubt the case that many more

appeals would be taken to a Supreme Court situate in India than are at present taken to the Privy Council, and the Committee appreciate the force of this objection. But there would be no difficulty in reducing the appeals to a reasonable number by imposing more stringent restrictions upon the right of appeal."

Now, it is this particular passage which I propose particularly to deal with, and I submit that any attempt on the part of the Round Table Conference to curtail the right of appeal—which right has now been enjoyed by the subject for well-nigh a century—would be a retrograde measure; and I submit that it would be no sort of reform at all if on the eve of the constitutional reforms or as part and parcel of them we were to be denied a very valuable privilege of appeal which the people of this country have enjoyed, as I have submitted, for well-nigh one hundred years already. I submit that, unless there are very strong and cogent reasons for taking the opposite view, if we cannot be given anything more, at any rate we should not be deprived of what we already possess and enjoy. Now what are the reasons why this privilege is proposed to be taken away or encroached upon by the present proposals? The reason is that, so far there have been peculiar obstacles in the way of the people. People who feel dissatisfied with the decision of a High Court have now got the right and privilege of taking that matter in appeal to the Privy Council. They say that in present conditions there is a very small number of people who actually prefer an appeal to the Privy Council, and the reasons for that fact are quite obvious. The long distance, the enormous expense, the long delay connected with an appeal preferred to the Privy Council are no doubt deterring factors. Many people, through sheer lack of means and the amount of money it is necessary to spend in order to prefer an appeal, are now debarred from that redress which otherwise they would be perfectly willing to seek. Again, there have been cases on record where for dozens and dozens of [illegible] proceedings have been pending and no decision has been arrived at on appeals already filed before the [illegible] Privy Council, so that apart from the question of expense, there is this long delay which also acts as an impediment; and over and above that, there is the peculiar [illegible] and that [illegible] to the disadvantage that people who prefer an appeal, not themselves being on the spot, cannot watch the conduct of their case and are not in a position to give proper and adequate instructions to their counsel. Therefore, Sir, the people, in the present conditions, are perforce debarred from seeking the redress and the remedy which in name and theory they no doubt possess; and now the argument put forward is that because hitherto on account of such obstacles you were not able to take full advantage of that privilege of appealing to the highest tribunal in the Empire, now that we are considering the constitution locally of a Supreme Court, you should be in the same disadvantageous position, and a facility which has been conceded in theory for such a long time should for all practical purposes be rendered as innocuous and as ineffective as the previous state of things when appeals were preferred to the Privy Council.

Sir, I do not think I should be overstating my case or placing before you an unfair parallel if I were to illustrate this by saying that it really comes to this. If a hospital were to be built on the top of a hill with a particularly narrow and ill-defined road and the people were invited to resort to that hospital, it would work like this that people with bad dislocations could get on to the top of that hill and get treated, no doubt very well, I am willing to admit that, because we have got very nice surgeons there, but who is going, I ask, to get to the top of the hill? Now when you are going to build and erect a base hospital, you turn round and say,

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"Now, hereafter we are not going to treat those people unless they have got double fractures and not mere ordinary cases of dislocations because you people were perfectly satisfied before this to die and to resign yourself to your fate", so that in spite of the fact that there is a remedy provided on the spot, you are now trying to create impediments so that people may not be able to avail themselves of this facility which is now sought to be provided. I submit, Sir, that this would be a very backward sort of legislation and that the people should protest, and I am sure nobody is going to part with a vested right which has been enjoyed for a very very long time.

That is so far as regards the remedy of civil appeals is concerned. Now dealing with the criminal side of it, I submit that the position requires much greater thought and things should be remedied without the least possible delay. Now so far as the right of appeal on the civil side is concerned, there is a two-fold appeal provided. In cases of small value there is, first of all, the appeal to the District Judge and thereafter a second appeal to the High Court. In cases of a certain value and beyond, there is a first appeal to the High Court in the first instance and thereafter, on certain conditions, a second appeal is provided to the Privy Council. For all practical purposes, therefore, we have two-fold appeals provided so far as civil cases are concerned. But when we come to the criminal cases, we find that there is only one appeal given to a convicted person. In certain cases there is an appeal provided only to the Sessions Court; in certain other cases, where the sentences are longer, the appeals are provided which are preferred in the High Court. But once an appeal is preferred there is no further remedy provided after that. From a decision of appeal before the Sessions Court there is a remedy on revision provided, but so far as the appeal in the High Court is concerned, that is absolutely the final pronouncement on the subject. There is no further revision or appeal or any other remedy open to a convicted person. Now, Sir, I feel that that is the most unfair discrimination. If a double appeal is provided on the civil side, I do not absolutely see any reason why a corresponding facility should not be granted to a condemned or accused person. If anything, I should think that a greater facility, a greater opportunity, should be afforded to an accused person because in his case it is a matter of life and death in certain cases. Where people's liberties and life are involved, I do not think it requires any elaborate debate to convince this House that more facilities should in all fairness be conceded than are afforded to litigants who are sometimes promoting and fostering litigation merely for the fun of it or merely as a hobby or pastime and sometimes even as a passion. I therefore submit that, without any further argument, this Honourable House will be pleased to concede forthwith that a double appeal should in all cases be provided so far as the criminal cases are concerned. As things stand at present, and as I have already pointed out, although the Privy Council is always open to hear appeals in a certain class of civil cases, they have declared times without number that they are not a court of appeal for the purposes of criminal cases. In fact, latterly they have condemned the attempt on the part of counsel as well as Parliament to prefer criminal appeals to them. Therefore, so far as the Privy Council is concerned, that door is absolutely closed. The man whose sentence of death has been confirmed by the High Court has got, as I have submitted, no further remedy left to him in this country.

Now, Sir, it is necessary that we should go a little bit more deeply into the subject in order to see whether, after the confirmation of a death sentence by the High Court, it can be legitimately argued that the man should be given any more remedy to have his case reopened and discussed before some other higher authority. I submit that, apart from any other consideration and merely to be consistent, I fail to see why the value of people's lives and liberties should be less than the value which you place upon the properties of the people. But, quite apart from that, I submit that if we consider the various phases and various stages through which a person passes when he is first put on his trial, say for murder, I think the least we should concede to him is that he should be given the right of second appeal. Now, I ask you to bear with me for a few minutes and I will try to trace before you the various stages through which a person has to pass. To begin with, there is the police investigation. Now, Sir, so far as that particular stage of the proceedings is concerned, I submit that we are in a very unhappy position so far as this country is concerned. And as I discuss and consider each stage, I will, with your permission, Sir, endeavour to compare it with the conditions which prevail elsewhere, more particularly in England. Now, if we compare the nature and the character of the police investigation which goes on in this country with the corresponding police investigation which prevails in England, I do not think it will require any serious argument to convince the House that there is no comparison between the two. Here in this country, so far as the police are concerned,—I have no desire to malign or to abuse them unnecessarily—I am constrained to say that they are not after all an ideal police in spite of the fact that at the present moment there seems to be a disposition on the part of the officials to extol them to the skies. None the less, I am constrained to say that, so far as the conditions that prevail in a country like England, there they have a far more conscientious body of public servants, far more honest and far more competent. Although I cannot complain that the same conditions do not exist in this country and that the police are not quite so strong, upright and conscientious, yet it is due to the fact that the country is a slave country and the people are starving. So, in order to earn their pittance they have possibly to resort to certain things in order to keep themselves going. All the same, the fact cannot be denied that, so far as the police are concerned, they are, if I may be permitted to say so, a legislatively discredited body. I say legislatively discredited in the sense . . . . .

The Honourable Sir James Crerar (Home Member): I regret very much to interrupt the Honourable Member but I cannot allow to pass without a denial on my own part the suggestion made by the Honourable Member that the police force in this country is a discredited body. I must protest very strongly against that imputation.

Mr. B. R. Puri: The position that I was trying to place before the House is not an argument of which I am the author. I will have the privilege of quoting chapter and verse to which my learned and esteemed friend the Honourable the Home Member could himself refer. I now propose to draw his attention to certain legislative provisions which the law has laid down from which he can draw his own inference.

Mr. President: The Honourable Member has two minutes more.

Mr. B. R. Puri: May I know what is the time I am entitled to?

Mr. President: The Honourable Member is entitled to 30 minutes.

Mr. B. R. Puri: Well, Sir, in order to justify the observation which I was about to make, I would draw the attention of the Honourable the Home Member to such provisions of the Evidence Act as go by the names of Sections 25 and 26 and to such provisions of the Criminal Procedure Code as section 103 of the same Code. Now, unfortunately, I have got no time, but if I had time I could have dilated upon this question, and I would have placed before him the various grounds and the various reasons in support of the proposition which I venture to lay down before the House. None the less, even the Honourable the Home Member cannot claim that we have got an ideal police in this country. So far as the police investigation goes, we are not in a very happy position. Then comes the next stage when the case of an accused who is being tried for murder is before the committing Magistrate. During that stage, no doubt the formality is being observed, certain evidence is being recorded and the witnesses are being examined and cross-examined. But what is after all the position of a committing Magistrate? We all know fully well that he is more or less regarded as a post office. He is there to record mechanically the evidence without being able to express his own views or without giving any finding. It is not for him to decide that question. It is ultimately within the jurisdiction of the Sessions Court, and therefore the committing Magistrate is merely a collector of evidence which he passes on to the Sessions Court for any finding that the Sessions Court may like to give. Therefore I submit the stage of the committing Magistrate is not the stage in which the real question of guilt or innocence of the man has been considered and determined one way or the other. This is merely a prolongation of the misery and an unnecessary burden and expense upon the wretched unfortunate man. Therefore the first stage of police investigation and the committal Magistrate's proceedings are of no use to the man concerned. Then we come to the actual Sessions trial. Here the Sessions Judge is assisted by a body of men called assessors, an institution which I consider is a disgrace upon criminal administration of the country. Here is a body of uncouth uneducated men, pliable and official-ridden, who are always there to record in most cases, and I speak from experience . . . . . .

Mr. President: The Honourable Member's time is up and I will allow him only two or three minutes more. I cannot allow him indefinitely to go on as long as he likes.

Mr. B. R. Puri: This body of men is supposed to be part and parcel of the Court itself. These classes of men are allowed to participate in a serious trial where the question of life and death is involved. If these men bring any verdict of guilt, that opinion is very readily availed of. If on the other hand they bring in a verdict of not guilty, they are contemptuously ignored. That is their lot. They do not understand law; they are most of the time dosing as far as I have been able to see them. They are not paying the least attention to the case, and the actual question that is being agitated before them, and this is the actual atmosphere in an average Sessions trial. I do not say for a moment that Sessions Judges do not discharge their duty nor endeavour to do according to the best of their lights. But what I submit is that in a trial where such a light atmosphere is allowed to prevail, surely you cannot say that this is an ideal administration of justice, especially in

cases in which the question of life and death is involved. The last and the final stage in the proceeding is when the matter comes up before the High Court. I have very great respect for the High Courts, but I would venture to submit that a considerable number of people would certainly have been alive to-day just like you and me if they had not been despatched to the gallows by the decisions of the High Court. These are not my own views in the matter. I would refer for the information of the House to a passage from a speech made by Mr. Eardly Norton on that point. He says:

"With regard to the question as to what powers should be vested in the contemplated Supreme Court, I do not propose to speak. These will be discussed later on, if and when this matter returns to us at a future period. But, with regard to the question of the criminal side of the question, I have a word or two to say. I do hope, that if the Supreme Court crystallises, its Judges will be invested—I do not say the right of appeal from the High Courts,—but I do trust that they will be invested with larger powers than at present it is apparently suggested that they should possess. There is a feeling—and I think it is a feeling which is well based—there is a feeling that it is because High Courts are in criminal matters placed in a sphere of almost complete irresponsibility, that such not infrequent miscarriages of justice occur."

Then he gives two instances. I am not going to take the House through all the details. At the end he says:

"Had it not been that the appellant had friends who supplied him with necessary means, he would have been convicted and convicted unjustly. He was acquitted in the Privy Council. A few years later, a man was charged with murder. . . . . "

With regard to this case, he says:

"If the accused had not been an extremely wealthy man, the Government of Madras would have hanged him. To cure all this, I venture to think, that as my learned and Honourable friend suggests, if we had a Supreme Court of appeal sitting here on the spot, with counsel trained in the law as now, there would be no justification for the allegation that the vindication of innocence depends sometimes upon the length of the purse and not of the merits of a prisoner."

Mr. President: The Resolution proposed runs:

"This Assembly recommends to the Governor General in Council to take early steps to secure that a Supreme Court is established in India with power—

(*a*) to interpret and uphold the constitution;

(*b*) to act as a court of final criminal appeal against all sentences of death;

(*c*) to act as a revising court in specified serious cases;

(*d*) to hear civil appeals now heard by His Majesty's Privy Council; and

(*e*) generally to carry out the work at present entrusted to His Majesty's Privy Council;

provided that such court shall not affect His Majesty's prerogative safeguarded in the constitutions of Canada, Australia and South Africa."

Mr. B. Sitaramaraju (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): I gave notice of a similar Resolution, but that was done before I had a copy of the decisions arrived at by the Round Table Conference. When I saw the decisions arrived at by the Federal Structure Committee of the Round Table Conference, I thought that I should not press that Resolution and that for reasons which are not identical with those of my Honourable friend who has just now resumed his seat. I am afraid my Honourable friend Mr. Puri has misunderstood the conclusions arrived at by the Round Table Conference on this point.

Mr. B. Das (Orissa Division: Non-Muhammadan): Are they not mere recommendations?

Mr. B. Sitaramaraju: There is no doubt that Mr. Das and others of his way of thinking have not taken kindly to the decisions of the Round Table Conference. I, as a Member of this Assembly, would certainly consider that the Assembly is not treated properly when it was not given an opportunity to elect representatives to that Conference, but short of that I should say that when the Round Table Conference was constituted, the various groups of this Assembly were duly represented by their Leaders.

(At this stage Mr. President vacated the Chair, which was taken by Mr. Deputy President.)

It cannot be said that Government have completely ignored this Assembly because the Muslim Party leaders and the Independent and Nationalist Party leaders were represented in the Round Table Conference. After all it was not only this House, but the various other interests in the country had to be catered for, and I think, short of giving a representative character to that body, Government have done fairly well, and so far as I am concerned, I am not of the same view as the one expressed by Mr. Puri on this occasion. So far as the Supreme Court is concerned, the Federal Structure Committee has considered this question, and in considering that, they had to consider the larger question of a Federal Court. If we have to have a Federal constitution, the constitution of a Federal Court is essential, and the question which was then considered was whether, when such a Federal Court was constituted, the desire of British India to have a Supreme Court should not be taken into consideration; and the Round Table Conference came to the conclusion that a Supreme Court also was essential. Having come to that conclusion, they thought that the Federal Court and the Supreme Court, instead of being two separate bodies pressing financially upon the country's resources, should be grouped into one, each sitting in a separate division. That was the recommendation of the Federal Structure Committee, and when they said that there was a strong opinion that there should be a Supreme Court constituted in India and that it should be done forthwith, I do not see any reason why we should quarrel with that recommendation.

Mr. B. R. Puri: They do not say that it should be done forthwith, and that is my point.

Mr. B. Sitaramaraju: I am coming to that. You have read paragraph 63, and if you read paragraph 64 you will find that they say the following:

"The only difficulty was for the Federal Structure Committee whether the Constitution Act itself should at once establish a Supreme Court or whether the power should be given to the Federal Legislature to establish it as a separate institution."

That was the point that was considered by the Federal Structure Committee, and the conclusion that they arrived at was that a *via media* had to be struck. They said therefore . . . . .

Mr. B. Das: Sir, on a point of information. Last year Government allowed us a day to discuss the report of the Round Table Conference and this year we expect there will be a day . . . .

Mr. Deputy President: That does not arise on the present discussion.

Mr. B. Das: The question is that when we are discussing here the report of the Federal Structure Committee . . . . .

Mr. Deputy President: Order, order.

Mr. B. Sitaramaraju: I was saying that that was the question before the Federal Structure Committee, and the recommendation of that Committee was this. They said:

"They recommend therefore that the Constitution Act should prescribe the jurisdiction and the functions of the Supreme Court and that the Federal Legislature should be given power to adopt these provisions of the Constitution Act in future."

That was, as I said before, a *via media* between the two positions whether a Supreme Court should be constituted forthwith or whether it should be left to the future Federal Legislature.

Now, Sir, when we are to have a federal constitution, "to interpret and uphold the constitution", as is mentioned in clause (*a*) of this Resolution, would be considered purely the function of the Federal Court, and that was conceded by the recommendation of this Committee. Therefore so far as clause (*a*) is concerned, it is gone; and as regards the four other points, except the question of the constitution of a final court of criminal appeal over which there is some difference of opinion and to which I shall refer later, the Federal Structure Committee has conceded the other three. My Honourable friend would be wrong in supposing that the statement of a mere point that there would be a number of appeals if a court is constituted in India was any strong ground in itself for the Committee to be afraid of constituting it. It was only a mere argument which was made before the Committee and whatever the merits of that position may be, it was after all a mere argument. It was not, and is not, a material issue. As regards the constitution of a Supreme Court that is, as I have already said, conceded except in the case of the constitution of a criminal court of appeal, and these are the findings of that Committee regarding a court of criminal appeal:

"The Committee had no time at their disposal to enter into a close examination of the question whether in principle a court of criminal appeal for the whole of India is desirable or not and they do not feel themselves able to express any opinion on the matter, though they recognise its great importance."

Therefore even as regards the question about the constitution of a court of criminal appeal, the Federal Structure Committee have not come to any definite conclusion. They themselves had no time to consider this question.

Mr. B. R. Puri: Sir, if the Honourable Member will kindly read ten lines lower down, he will find that they did come to a definite finding. They said:

"For the same reasons as they hesitate to recommend the immediate establishment and the constitution of a Supreme Court of Appeal in civil matters from the High Courts of British India, the majority is unable to recommend the immediate establishment of a court of criminal appeal."

Mr. B. Sitaramaraju: Sir, I am very much surprised to find that my Honourable friend has misunderstood me. If my Honourable friend will only refer to an earlier page he will find that there were two views expressed. One was for the constitution of a Supreme

[Mr. B. Sitaramaraju.]

Court immediately and the other was to leave it for the Federal Legislature. The remark which was just now referred to by my Honourable friend deals with the former view, that it should be left to the Federal Legislature, and in that case they are of the opinion that the constitution of a court of criminal appeal should also be left for future consideration. But the Committee, as I have said before, struck a *via media*, and they said that it should form part of the Federal Act itself and the details should be left to the Federal Legislature. That is the recommendation. In these circumstances, Sir, I do not think that it is desirable that he should press the Resolution at this stage.

(At this stage Mr. President resumed the Chair.)

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, I feel that I cannot support this Resolution at this stage. I believe that as a necessary result of the federal constitution which they all say is coming every day, there would be a Supreme Court of final appeal established here for the purpose of deciding constitutional questions. Consequently there is nothing wrong, the skies are not going to fall, if we wait a few months more till the federal constitution is established with a Supreme Court for final decision of constitutional matters. Now, along with these constitutional matters it was suggested in the Round Table Conference that the functions now discharged by the Judicial Committee of His Majesty's Privy Council might also be transferred to that tribunal. The objection that was raised before the Round Table Conference does not appeal to me, because, Sir, if I can lay before the House the experience that I have gained,—not probably in such highly civilised quarters as in British India—I think this bogey of an increase in business would not materialise. It is perfectly true that the absence of these handicaps that my friend Mr. Puri has placed before you would probably increase the business to a very small extent. But at present the work is done under the Judicial Committee Act and even if it had been enlarged by enlarging the provisions of the Civil Procedure Code, I do not think it would make for such an extraordinary increase of business that it will be difficult for the coming Supreme Court to deal with the constitutional as well as the judicial side of it. But, Sir, in view of the fact that the question has got to be threshed out, I do not see any immediate necessity of this Resolution. It is not that these recommendations and these aspects so ably put forward by my friend, Mr. Puri, would not be considered at the proper time, but he wants that the Supreme Court should be established in India, *i.e.*, now before these other things which are now in the melting pot are taken out and beaten into shape. That provision in the Resolution makes it premature. He wants that it should interpret and uphold the constitution, which does not exist. I take it that that is a duty which the Federal Court will be invested with, when the constitution comes to existence. With regard to making it a court of criminal appeal and a court to act as a revising court in certain specified matters, I entirely agree with my late friend and master, Mr. Eardley Norton, that the provisions regarding criminal appeal in death sentences should be considered in a more careful manner than has been done in the past in the few cases which go before the Privy Council, and that unless a very strong case is made out, they should simply veto an appeal, because it would bring in a flood of similar appeals before the Privy Council, which

it would not be a convenience for that tribunal to decide. Much water has flowed under the bridge since then, and I have no doubt values in regard to these things have changed; but after all has been said and done, there is absolutely no doubt that some provision must be made for redressing injustice in case of death sentences where, as in the Pondi case, which Mr. Eardley Norton has cited, the man would have been hanged were it not that the whole judgment of the High Court was cabled to England at a cost of Rs. 19,000 or Rs. 20,000 and their Lordships were supplied with a copy before they were prepared to interfere in that criminal appeal. That condition of things is not at all a satisfactory one, and it does require careful reconsideration. I would therefore suggest to my friend, Mr. Puri, that after having got out the opinions of this House in regard to his Resolution, he should not press it to a division, but wait and see what is going to come from all this talk of a federal constitution, and the Federal Court so far as the judicial administration is concerned, and then bring forward his Resolution if what the Federal Committee decides does not satisfy him.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, from what we have heard so far from Honourable Members here, we find that there are philosophers differing on the point that so much has been conceded by the Federal Structure Committee and so much has not been conceded. There may be differences of opinion on these points, but the fact remains and cannot be denied that under the present constitution of the Government and of the courts, criminal justice falls very short of civil justice. My friend, Mr. Puri, in a very lucid speech, has stated that criminal justice is not up to the mark in criminal appeals, and when they are preferred to the Privy Council, they do not have the same consideration which is shown always to the civil side of justice . . . .

Mr. B. R. Puri: They are not entertained at all.

Mr. Muhammad Azhar Ali: Quite so, as my friend says they are not entertained at all. Every lawyer who has any experience of the Privy Council cases or the High Court cases knows these facts very well that the criminal side does not receive the same attention. The fact cannot be denied by any Member in this House that criminal appeals in the Privy Council are thrown away without any redress to the litigants or accused.

As regards the fact whether the Supreme Court is or is not a necessity, this fact has been recognised by the Federal Structure Sub-Committee that a Supreme Court is important for British India, and I think the Indian States will not object to British India having the benefits of a Supreme Court. In this House we simply want to express, as my friend, Mr. Puri, says, a desire that a Supreme Court is a necessity for the administration of justice in British India. This desire of ours we want to be carried by the Resolution of this House, and in my opinion it is a very legitimate desire. As regards the points that there are heavy expenses and much time is spent in preferring appeals, it is a fact which cannot be denied; it cannot also be denied that we have no power of appeal in criminal cases. There is only power of revision at present, and all these difficulties will be minimised when Supreme Court is established in British India. If the Indian States do not desire that the Supreme Court should operate within their States, this point can be settled with them when matters are being finally settled. Here our object is that

[Mr. Muhammad Azhar Ali.]

if the Supreme Court is to be established, then we ought to know the Government point of view, and we want the Honourable the Law Member to state in very definite terms that the object of this Resolution will be considered in the final shaping of the new constitution. That is the only object, and I do not think there is any other object besides that.

Mr. B. Das: Sir, I rise to support the Resolution moved by my friend, Mr. Puri. I did not want to speak, but I find the report of an extraneous committee known as the Federal Structure Committee has been brought on to the floor of this House and quoted *in extenso*. I am surprised that certain Honourable Members of this House have shown such deference to any recommendations that certain gentlemen made in the Round Table (or oval table) Conference—I do not know what it was—I have not seen a picture of it—and that it should be taken for granted that certain decisions were reached in the Round Table Conference or Federal Structure Committee and this House should abrogate its power and should bow to the decisions of those Round Tablewallas. Even my friend, Mr. Sitaramaraju, for whose legal acumen I have the highest respect, quotes from this report of the Federal Structure Committee, where I find there are many Highnesses and many Knights and only a few Misters—Mr. Gandhi, Mr. Rangaswami Iyengar, Mr. Jayakar, Mr. Jinnah, Mr. Gavin-Jones, Mr. Joshi—only very few Misters, but all are "His Highnesses" or "Marquesses" or "Sirs" or "Diwan Bahadurs", etc. My friend Mr. Raju says that, because there is going to be a Federal constitution, we should postpone the idea of having a Supreme Court for India. And what is this Federal constitution? It brings in the essential principle that there will be represented in it all the States of India. The Government have not taken any opportunity to bring before this House these reports or any other reports that have reached them by Air Mail from London for discussion. Why should we bow to the recommendations of a certain committee or committees with which we never had any agreement, with which we have no agreement? Their recommendations are subject to consideration by this House and also by the British Parliament, but before the Parliament decides, it is the duty of the Government to bring before this House their decisions for discussion and consideration. Mr. Raju says that we bow to their decision, and we will have a Federal Court. What my friend Mr. Puri wants is a Criminal Court of appeal for British Indians. Suppose a Federal Court comes into existence, will the laws that will govern the trial of criminal cases in British India also apply to people of Indian States? Have not Their Highnesses who participated in the Round Table Conference taken full care to see that there shall be no interference in the internal affairs of Indian States? So why should we postpone consideration of the decision that India needs a Supreme Court where the criminal appeals can be considered in the admirable manner suggested by my friend Mr. Puri. My friend Mr. Raju never went as member of the Round Table Conference or of the Federal Structure Committee, and why he is so very respectful to these bodies and why he is worshipping the recommendations of these committees I do not know. Last year we found, when we had assembled to discuss the recommendations of the first Round Table Conference, there was a lot of verbiage and nothing worth considering, and this House gave its opinion that there was nothing worth

1 P.M.

considering in the Report of the Round Table Conference, and this opinion the Honourable the Home Member took the opportunity to forward to the Prime Minister and to the British Parliament. I think Honourable gentlemen who will speak after me will take care not to make any observations on the proceedings of the Federal Structure Committee. Let us consider the merits of the question, whether India needs a Supreme Court, and I would like the Honourable Member in charge to answer the question I have raised, namely, whether the laws that apply in criminal trials to British Indians will also apply to subjects of Indian States; otherwise I repudiate any idea of Indian States coming into the Federation, nor do I wish to associate myself with the Princes who have no sort of civilized administration in their States. With these observations, Sir, I whole-heartedly support the Resolution of my friend Mr. Puri.

Mr. N. R. Gunjal (Bombay Central Division: Non-Muhammadan Rural) made a speech in Hindi, a translation of which will appear as an appendix to these Debates later.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I am in full agreement with my Honourable friend Mr. Puri when he says that this Resolution is not inopportune; indeed I would say that the Resolution has been brought forward in the very fitness of things. The only objection raised is that the Round Table Conference has been considering this question and therefore we should wait. I do not agree with that view, and I think the advantage of passing this Resolution now will be that the Round Table Conference will be influenced by the considered opinion of this House on this question.

With regard to the question whether the Round Table Conference members are the representatives of this country or not, I need not go into it very much, but I must say that the members of that Conference were nominated by the Government, and in that nomination I must emphasise the point that the representatives of all parts of the country were not included. As an illustration take the case of Sind Hindus. I put a question to-day to the Leader of the House at the question time as to why it was that no representative was appointed from the Hindu community of Sind to the Round Table Conference while the question of the separation of Sind was a prominent and vital matter before the Round Table Conference. The reply was,—and I was very much astonished at the reply—that it was the Secretary of State who nominated these members.

Mr. President: How is that relevant to the Resolution before the House?

Mr. Lalchand Navalrai: I only wish to say that it is covered by the point that this Resolution is not inopportune . . . . .

The Honourable Sir George Rainy (Leader of the House): I should like to point out that I did not make any statement to-day about the appointment of members of the Round Table Conference. The questions that were asked were about certain committees.

Mr. Lalchand Navalrai: What I want to say is that I do not agree that the nomination was made by the Secretary of State without consultation with or without concurrence of the Government of India. Therefore, I maintain that, no matter whether this question is being considered by the Round Table Conference or not, it is right and proper that we should express our opinion on this Resolution. I must also say that I was not a little surprised at what came from my Honourable friend the Raja Bahadur on this motion. The Raja Bahadur seems to think that this question also should be treated on the same basis as some of the social questions which have been troubling the orthodox people of India and in regard to which it is asked that they should not be interfered with. That cannot be so. We know full well, and the Raja Bahadur also knows it full well, that whenever a Resolution is passed, it is not put into execution forthwith. The Resolution under discussion only asks that the Governor General in Council may take early steps to secure the establishment of a Supreme Court in India. It talks of "early steps" being taken and not that the Court should be started at once as the Raja Bahadur thinks.

Coming to the merits of the question, I do not think that there can be much controversy as to the need of a Supreme Court for India. I do not think that on that question even the Government would say no. The Round Table Conference report, to which reference has been made, also concedes that a Supreme Court is necessary, and the necessity having been admitted the question is whether there should be any delay. The point is that the country has been suffering without a Supreme Court. It has been prominently brought out today, that if proper justice is to be given to this country, especially in criminal cases wherein people are to be hanged, there should be a second appeal to the Supreme Court. The Indian Penal Code provides capital punishment primarily and transportation secondly, for murder. Therefore it is very important that in cases of capital punishment there should be the highest tribunal to give a final decision before a man is hanged. Without taking any more time of this House, I submit that, so far as the question of establishment of a Supreme Court in India is concerned, I am in full agreement with this Resolution. Further reasons in support are already given in the Resolution itself. Apart from all that, it is very costly to reach the Privy Council—6,000 miles away—to have the final appeals decided, and the delay that is involved is ruinous. Sir, I therefore heartily support the Resolution.

Dr. F. X. DeSouza (Nominated Non-Official): When my Honourable friend Mr. Puri began to address this House on this Resolution which is before the House, I thought he was going to address us about what the constitution of this new Supreme Court was going to be, what its functions were going to be, how the personnel was going to be recruited and whether the same Court should continue the functions of a Federal Court and a Supreme Court, but I was surprised to find that in the course of his speech,—which unfortunately had to be curtailed owing to the time limit being short—he devoted the bulk of it mainly to a plea for enlarging the right of criminal appeals. He dwelt upon the imperfections of the administration of the criminal law in this country, pointing to the inefficiency of the police force, to the fact that the committing magistrate merely serves as a post office, to the fact that in the Court of Session the assessors are a body of illiterate men whose verdict of guilty the Judge

accepts implicitly but upon whose verdict of not guilty the Judge adversely comments as being the verdict of illiterate and incompetent men—for these reasons he said that the right of merely one appeal, especially against sentences of death to the High Court was insufficient, and a right of second appeal was necessary. I venture to say, assuming all the allegations which he made against the machinery for the administration of criminal justice in this country are true, would a remedy be provided by the provision of a right of second appeal? The court of second appeal as you are aware, Sir, can only act upon materials which are properly on the record in the original court. Therefore, whatever the number of criminal appeals you may provide unless the foundation is well and truly laid in the first court, it is useless to provide the machinery for multiplying the number of appellate courts. I think, Sir, the proper remedy for the abuses which my Honourable friend Mr. Puri mentioned is not to provide a right of second appeal in criminal cases, but rather to strengthen the police force, the magistracy and the Sessions Courts. I have some experience of the administration of criminal justice and I can say, without fear of contradiction, that during recent years there has been a marked improvement in the machinery for the administration of justice, especially criminal justice, in this country. The qualifications which are now required by the Government for the magistrates as well as the judiciary are gradually getting more and more exacting. The class of men from whom the magistracy and the judiciary are recruited is getting more and more educated, and I can say without fear of contradiction that both in point of integrity, learning and judicial acumen, the magistrates and the judiciary today are far ahead of what they were 30 years ago. If this state of affairs continues, and when the new Government comes into power, I feel certain it will improve still more because the Government will then be more in touch with the people; they will devise machinery in order still further to strengthen the administration of criminal justice, and then the need for a second appeal will be far less felt than it is today. Sir, I had the honour of serving on the Civil Justice Committee some years ago and there we had to consider the question of the right of appeal in civil cases, and the opinion we there recorded, after a careful examination of all the evidence that was placed before us—and that evidence was examined by no less a person than Sir George Rankin, the present Chief Justice of Bengal, was this, that it is time that the facilities given for futile and unnecessary appeals should be curtailed as much as possible. The principle we have to place before us is:

"Interest reipublicae ut sit finis litium".

"It is to the interest of the State that the litigation should be reduced to the utmost possible limit, provided the right of the subject to obtain justice is not curtailed." I think we have already sufficient right of appeal with regard to civil cases, and I am certainly opposed to multiplying the right of appeal in criminal cases. Even in England, Honourable Members are aware that it is only very recently that the right of criminal appeal was given in the English system, and although there have undoubtedly been cases of miscarriage of justice brought to light, yet time after time the judges sitting on the Bench of the criminal appeals have observed that a large number of appeals that come before them are perfectly futile and waste the time of the Court. I entirely agree that the persons condemned to the extreme penalty of the law should be allowed every latitude, but is there any reason to suppose that the facilities now given are insufficient?

[Dr. F. X. DeSouza.]

Is there any reason to say that the High Court, where two experienced judges examine every detail after hearing counsel on both sides and come to a unanimous conclusion with regard to facts—because after all in a criminal case it is mostly a question of fact and not of law—will go wrong, and that a court sitting 5,000 miles away and composed of judges who are ignorant of the conditions of this country and who cannot appreciate the nature of the evidence given in criminal courts in this country, is likely to come to a more reasonable or sounder conclusion than that arrived at by judges in this country? I feel, Sir, that there can be no foundation for such a suggestion. It seems to me that the very arguments which my friend Mr. Puri has advanced have the effect of demolishing the Resolution which he has put forward, for if his arguments are to be accepted, then the proper remedy is not the creation of a Supreme Court but the strengthening of the magistracy and the judiciary in this country. With these words I resume my seat.

The Assembly then adjourned for Lunch till Twenty-Five Minutes to Three of the Clock.

The Assembly re-assembled after Lunch at Twenty-Five Minutes to Three of the Clock, Mr. President in the Chair.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, this Resolution does not call for many words to support it. Honourable Members will find if they turn to the Indian Round Table Conference report recently published that, when dealing with the question of a Supreme Court in India, what they have recommended is this. They have recommended that so far as the Federal Court is concerned, it should be established, but when they came to the question of the establishment of a Supreme Court dealing with what is called the administration of municipal law, civil and criminal, as between man and man, there was a division of opinion. Some said, establish it as a part of the Parliamentary Constitutional Act, and others said leave it to the Federal Legislature to enact by an Act of their own later on if they feel so advised. They further said that we have also no materials before us at the present moment to decide whether the Supreme Court should be armed with jurisdiction to hear appeals in civil and criminal cases. That Honourable Members will find in paragraphs 64 and 65. In this view they followed the procedure which, as I shall presently point out, is the procedure which was followed by Parliament when enacting the North-America Constitution Act of 1867 in which they provided merely a skeleton constitution for the creation of a Supreme Court and left the Government of Canada to implement its terms by setting out the specific powers that that Court would exercise. But since the Act of 1867, known as the North-America Constitution Act, there have been other Acts, the Act establishing self-government in the Commonwealth of Australia and in the Union of South Africa enacted in 1900 and 1909 respectively, in which the Parliament does not provide for a mere sketchy constitution for the creation of a Supreme Court, but also lays down that that Court shall possess the power of hearing appeals in civil and criminal cases. Those Honourable Members who desire to study the subject with more particularity will find all this set out

in this book called the "Select Constitutions of the World". The jurisdiction of the Supreme Court of South Africa will be found set out in Part VI and the power of the Court to hear civil and criminal appeals in sections 103 and 104 of the Parliamentary Act. In the case of Australia they will find the same provision made in Chapter III of that Act. The latest constitution creating a self-governing Dominion within the British Commonwealth was the Irish Treaty embodied by the Parliamentary Act of 1920. In that there is no provision made for the creation of a self-contained Supreme Court for Ireland, and that has been the grievance of the Irish Free State and you will now find that, with the passing of the Statute of Westminster a few months ago, the Irish State can establish a Supreme Court of their own by their own legal Act. The position, therefore, as regards the constitution is that, except the Canadian model of 1867, the tendency in later Acts of legislation has been not merely to provide for the framework of a Supreme Court but also to set out the specific powers which that Court would exercise. That is the situation. Now, when the Round Table Conference met, they were confronted with these two salient examples—the examples of the North-America Act and the Acts of South Africa and Australia. When they deal with the question as to whether they should, by the Act of Parliament, confer upon these Courts specific jurisdiction to hear civil and criminal cases they wrote as follows:

"The Committee had not the time at their disposal to enter into a close examination of the question whether in principle a court of Criminal Appeal for the whole of British India is desirable; and they do not feel themselves able to express any opinion upon the matter, though they recognise its great importance. For the same reason that they hesitate to recommend immediate establishment by the constitution itself of a Supreme Court for appeals in civil matters from the High Courts of British India, the majority is unable to recommend immediate establishment of a Court of Criminal Appeal."

They, therefore, hesitated because they did not have the materials before them, and you, as the representatives of the people, are to provide the materials which the Round Table Conference lacked when they indicted this report. Therefore, you as voicing the sentiments of the people should say that following the examples of the later constitutions of the Dominions of the Empire, the Parliamentary Act should provide not merely for the sketchy constitution of the Supreme Court but also for the exercise of specific powers of hearing appeals from civil and criminal cases. That is the short point which Honourable Members have to decide here in connection with this Resolution.

Mr. B. Das: And to give our mandate to the Round Tablewallas.

Sir Hari Singh Gour: Yes, that is the position. I have not been able to understand what Honourable Members, who have spoken somewhat lukewarmly about this Resolution like my friends the Honourable Mr. Raju and the Raja Bahadur, and last but not least the Honourable Dr. DeSouza, were really driving at. Taking the Honourable Dr. DeSouza first, he says that there has been a great improvement in the personnel and efficiency of the magistracy and the Sessions Court. I grant it. But that is all the more argument in favour of this Resolution. Does my Honourable friend realise it? The Sessions Court, we will say, is a thoroughly efficient court and sitting with a jury it tries a murder case and acquits the accused. The Government have got the right of appeal to the High Court. The appeal is launched in the High Court and the High Court reverses the Sessions Judge's judgment and orders the execution of the accused. Is

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there any appeal against that? There is no appeal at all. The question is not, as my Honourable friend Mr. Puri inadvertently said, let us have two appeals in criminal cases. This question raises the question of the fundamental right of a single appeal to an accused who has been condemned against the verdict of that impeccable Sessions Judge sitting with that omniscient jury. That is the position with which we are confronted in this country in regard to the administration of criminal law. Then take the other side of the picture. When the Sessions Judge passes the sentence of death, the Government of India Act provides that the order of the Sessions Judge is merely a recommendation to the High Court. The High Court then hears the arguments for and against the recommendation of the Sessions Judge. Up to that stage, there is a hearing, but when the final order is passed by the High Court, there is no appeal. That is the gravamen of the complaint which we on this side of the House make regarding the criminal administration of justice in this country. It is not a case of multiplying appeals, it is not a case of two appeals, it is a case in which we are claiming the fundamental right, the elementary right of a man to have an impartial judgment pronounced upon his innocence or guilt after he has been condemned and the final order passed against him. Can anybody deny that this lacunæ in the Indian criminal law should be rectified with the least delay? That I submit is an unanswerable argument as regards the establishment of a Supreme Court, armed with the jurisdiction of hearing appeals against the sentence of death and serious allied offences.

Now I pass on to the question of civil cases. Here again I am afraid the protagonists who spoke on the Round Table Conference, and their comrades, who have spoken from the other side of the House, have entirely misunderstood the situation. There is no intention of giving anybody more right of appeal. The intention is that the appeal to which he is entitled under the present Civil Procedure Code shall be heard by a tribunal nearer home at less cost and with greater convenience to himself and to his advisers. These are the fundamental principles upon which we claimed the establishment of a Court at home for the disposal of civil appeals. My friend, Dr. DeSouza, who seems to have been prompted to speak on the spur of the moment, seems to have completely forgotten that when he sat on the Civil Justice Committee and recommended the curtailment of the right of second appeal, this House, after mature and deliberate consideration, set aside the verdict and the recommendation of my Honourable friend and his colleagues. It is too late in the day to appeal to deliberations and decisions of the Civil Justice Committee. That is dead and was decently buried by this House a few years ago. What is then the position? Some Honourable Members on this side of the House, who seem to have made a superficial examination of this question, told us that we shall be prejudicing the Round Table Conference. Others have painted upon the portals of their gate and even on the Assembly, the ominous word "Tomorrow". Whatever you want to do, the argument is "Look at that word cut in deep black letters upon the forefront of this Assembly, 'Tomorrow'." Now it is for this House to decide whether a measure of this urgent reform, whether a measure upon which this House is entitled to give a lead to the country at large and to the Round Table Conference who have expressed their inability to decide upon this momentous question for lack of guidance and

for lack of suitable materials before them, whether we should not by passing this Resolution supply the material which they lack so that the representatives to the Round Table Conference like my Honourable friend Sir Cowasji Jehangir and Mr. Mody may say, "We have the imprimatur of the premier institution of this country representing the popular sentiments, representing the popular grievances when they demand that the constitution to be embodied in the Act of Parliament shall follow the modern lines of advance contained in the more recent constitutions of Australia and South Africa". Let us not burke the question by thinking that we are either eclipsing the Round Table Conference or hesitating to advise them as to what we consider to be the popular demand.

I wish to point out to the House in the very little time I have at my disposal that, so far as the bulk of this Resolution is concerned, that has been now approved of by the Round Table Conference. Take for example the interpretation and upholding of the constitution. They decided that that would be the function of the Federal Court. There was a dissentient voice or voices raised when the establishment of a Federal Court and the Supreme Court were asked for by the creation of a single judicial authority and though in their provisional conclusion they decided that the Supreme Court and the Federal Court should be a single body, an expression of opinion on your part will reinforce and restrengthen their view which they have taken in spite of the opposition presented to them from interested quarters. That I submit is a part of the Resolution which must equally go through. Then you have clauses (*b*) to (*d*), and these are cases of civil and criminal appeals which I have already dealt with. Then we have clause (*e*) dealing generally with the work done at the present moment by the Privy Council. Let me explain what this means. Under the Judicial Committee Act, 1833, the Judicial Committee has got the power of advising upon certain matters—that is section 4—all those matters as are referred to in para. 58 of the report of the Round Table Conference. What we want is that the power which is at the present moment statutorily exercisable, not that it is exercised, by the Judicial Committee of the Privy Council shall be transferred to the Supreme Court. That disposes of the sub-clauses. There remains the proviso, that the King's prerogative preserved in the constitutions of Australia, South Africa and Canada shall not be interfered with. That is a self-evident proposition, and cases may arise and will arise when the King will have to exercise his prerogative and which we want to be statutorily preserved and safeguarded as it is in the other constitution of the British Commonwealth. That, Sir, is all that the Resolution asks for. I fail to understand why there should be any discordant note struck from any side of the House in giving the deliberations of the Round Table Conference and our spokesmen there the lead they want, and without which they would not be able to act with that assurance and certainty the lack of which they have themselves confessed, and which is noted in the paragraph of the Round Table Conference to which I have adverted. Sir, I think the Honourable Member's Resolution is a perfectly sound one and I do not think Government should exercise their right of opposing the Resolution in view of the facts I have stated.

The Honourable Sir James Crerar: Mr. President, my intervention in this debate will be very brief and very limited in its purpose. It will be limited in fact merely to answering in the briefest possible terms the question which was put in his concluding sentence by the Honourable the Leader

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of the Nationalist Party. It was observed by the Honourable and learned gentleman from the Punjab who moved this Resolution that its subject-matter had formed an important part of the consideration, and the discussion of the Federal Structure Sub-Committee. He informed the House of the conclusions, so far as conclusions had been reached, by that Committee, of the points which that Committee had left open and of the points which he conceived were very proper for consideration and discussion by this House. Now, Sir, from the point of view of Government, I wish to say that while I take no exception whatsoever to Honourable gentlemen opposite putting different constructions upon the conclusions,—so far as they are conclusions—arrived at by the Committee, or putting forward the views which they themselves hold, the position which Government must take as regards their general attitude towards the Resolution is this. An answer, either affirmative or negative, to many of the questions which are propounded in this Resolution must necessarily anticipate a state of affairs which we on this side of the House can hardly be expected to anticipate in such a manner as to lead us to commit ourselves finally upon these propositions. Consequently Government will not oppose this Resolution; but I must make it clear that the fact that they do not propose to oppose this Resolution must not be construed to mean that they are prepared to affirm all or any of the propositions which it contains. And for that reason, if this Resolution is pressed to a division,—a course which I venture to suggest in all the circumstances of the case may be found neither necessary nor profitable.—Government and the official Members will not vote in the division.

Now, Sir, though I do not wish to deal, as I said, with the intrinsic merits of any of the propositions contained in this Resolution, I must say a few words upon one of the arguments which was employed by the Honourable and learned gentleman from the Punjab who moved it. It was part of his case, as I understood it; when he was speaking more particularly on the question of granting the jurisdiction of criminal appeals to a Supreme Court, his case was largely founded upon the alleged demerits of the large body of public servants whose duty it is to contribute in one way or another to the administration of justice. His strictures began with the police; they covered the committing magistrates and even the assessors who are not exactly public servants but citizens performing a public duty imposed upon them; he passed on to the Judges of the Courts of Sessions, and by necessary implication there was some disparagement of the merits as courts of criminal appeal of the High Courts in India. Now, Sir, if the Honourable gentleman had limited himself to the proposition that neither our police forces nor our magistrates, nor our courts of law nor some of the other elements and factors which are closely concerned with and contribute to the administration of justice attain to a superhuman ideal of perfection, I should have no exception whatever to take because the same could be said of any other country in the world. But when he selected for what I regard as unmerited strictures the police forces in India and the judiciary, I cannot allow these strictures to pass without a word of protest on my part. They have a very difficult task to perform. The most difficult is that performed by the police forces, but the task which is performed by the judicial officers is also often one of extreme difficulty; and I do not think that the Honourable Member had any legitimate warrant in basing his case,—whatever its merits otherwise be on points of jurisprudence, of

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law and of the machinery of judicial administration,—I say that I do not think that he has any good warrant and that he was following a somewhat unwise course in basing his argument on strictures of that kind.

Sir Edgar Wood (Madras: European): Sir, I join this debate not as an expert on the functions of Supreme Courts and Federal Courts but to try and give my interpretation of the feelings of the Round Table Conference when they came to make their recommendations. The hesitation of the Round Table Conference with regard to the immediate establishment of a Supreme Court was very largely connected with the matter of finance; and I beg to point out to the House that we have had no further enlightenment upon that point today either by the Mover of the Resolution or by those who have supported him. And in these days when the finances of India are one of the vital factors which should rule us in all our decisions in this House, I am really surprised that such a seemingly irresponsible sort of proposition as this should be put up; because I say it is irresponsible if Honourable Members do not take the trouble of going into the question of finance. I take it for granted that Honourable Members have given some consideration to this matter, but if they wish the motion to be pressed to a successful issue, it is undoubtedly their duty to inform the House what conclusions they have reached on that matter. It was on that account largely I think that the Round Table Conference suggested a division of the Federal Court into Federal and Supreme. In the debates numerous pros and cons came to light, and I think anybody examining those debates would come to the conclusions that the cons have it, and that a division of the Federal Court would not be advisable. But that perhaps is not a question into which we need enter to-day. Then of course there is the question of the Indian States coming into the Federation and that also would influence this question of the division of the Court. It is for these reasons that the Federal Structure Committee advised a close examination of this question by experts in a committee of investigation. I would ask my Honourable friends on the other side of the House not to forget that these recommendations were made, in spite of what they may say, by a very representative body. In that Federal Structure Committee there were Mr. Gandhi, Pandit Malaviya, Mr. Rangaswami Iyengar, Mr. Ramaswami Mudaliar, besides representatives of the States; and when the Honourable the Mover of the Resolution said that this was being thrust upon him by people in whom he had no confidence, it seemed to me that he must have no friends in the world! In the proceedings, the Lord Chancellor refers to the opinions expressed on the number of Judges which might be expected to be required in this Supreme Court, and I think it is recorded in the proceedings that members have mentioned it as their opinion that about 30 judges would be required; and when this question was referred to a very eminent lawyer in London by the European Group he advised us that it depended very largely upon what the duties of the court would be with regard to appeals and so on: but he put it down eventually at about 50 judges. Perhaps that is one of the reasons why my Honourable friend on the other side of the House is so strongly recommending his motion! It is quite contrary to facts to say that, as suggested by one Honourable Member, the Round Table Conference expected their views to be accepted as a sort of mandate for delay in establishing a Supreme Court. The Round Table Conference has definitely recorded in those proceedings and in their resolutions, that this House, reconstituted of course, is the proper body to deal with this matter of the Supreme Court. It is most clearly stated that this House is the body to decide the time of creation of this Supreme Court, and its functions, and

[Sir Edgar Wood.]

the powers that it proposes should be given to that court; and it proposes that power should be given in the new constitution to this reconstituted House to create a Supreme Court under the new constitution whenever it feels disposed to do so. For Members to make a grievance of the fact that there is a recommendation of the Round Table Conference that this House should delay this matter is palpably and perfectly absurd. There is no grievance whatever to be manufactured on a point of that sort. The Federal Structure Committee obviously did not wish the new Government of India to be tied in advance to something which they might find to be a heavy burden at first.

There is one other matter that has not been very much touched upon. I consider it a much more controversial matter than the first part of the motion; and that is the proposal to abolish—which is what it amounts to—the right of appeal to the Privy Council. That has been touched upon by the last Honourable speaker, but the Mover of the Resolution kept away from it almost entirely, I noticed. It seems to me a very important thing, and I was very much surprised that members of the minority communities in this House had not sprung up and concentrated upon this particular aspect of the motion, because, so far as I can make out, the members of the minority communities require in the new constitution the right of appeal to the Privy Council. That has been my reading of the position: so far I think they have not actually made up their minds yet as to what right of appeal they should have; but they certainly have not abandoned the idea of appeal to the Privy Council; and so long as communal questions exist, it seems to me that the right of appeal to the Privy Council will be one which they will cherish.

The whole question today seems to me to be one of slight delay as against hasty and unconsidered legislation. I am very sorry to hear that the Government intend to abstain from voting on this matter, because I think the principle at stake is whether this House should be permitted to recommend or not to Government an irresponsible proposal—because really we cannot label it as anything else but of a very irresponsible nature. Therefore on that ground I beg to oppose this motion.

Mr. R. K. Shanmukham Chetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): Mr. President, I would like to congratulate my friend, Sir Edgar Wood, on the very able maiden speech that he has delivered in this House, and we are looking forward to valuable contributions from him in future debates; and if I intervene in this debate today, it is not because I have got any original contribution to make, but for the simple reason that I would like to recall to this House a similar debate that took place in the year 1925 and the lead given on that occasion by my late revered leader, Pandit Motilal Nehru. On that occasion my redoubtable friend Sir Hari Singh Gour sponsored this Resolution, and on the advice and lead of the late Pandit Motilal Nehru, this House rejected that motion; and now I see that the circumstances have not so altered as to warrant us taking any different course from the one recommended to us by Pandit Motilal Nehru. I am afraid some little confusion has been caused in the minds of some of us as a result of the deliberations of the Round Table Conference and the possibility of the establishment of a Federal constitution in India in the near future. That a Federal Court with powers to interpret the constitution and to adjudicate in any disputes between one state and another, between one member of the Federation and another, is necessary no one can doubt, and no one can question; but whether in addition to that Federal Court, we ought to have a Supreme Court, which would either take the place of the Judicial Committee of the Privy Council or act as an intermediary between the High Court and the Privy Council, is a question on which I at least am not competent to express an opinion at this stage. Sir, my late revered leader, Pandit Motilal Nehru, speaking on that occasion in 1925, gave very many arguments why we ought not to subscribe to the proposition that a Supreme Court should be established at the present juncture. He said:

"The very first thing that we have got to do is to reform such courts as we have and also the procedure which is followed in these courts. No number of Supreme Courts in India would in any way promote the cause of justice so long as the executive and the judicial functions remain combined as they are and racial discriminations continue to be observed as now."

Sir, my friend Sir Edgar Wood drew the attention of this House to the financial burden that might be imposed upon the country as a result of the establishment of a Supreme Court, and the late Pandit Motilal Nehru drew pointed attention to this aspect of the case also:

"After all", he said, "an appeal to the Privy Council, as I know from my personal experience, is more or less a luxury for the rich, and I really do not see why the poor man should be burdened in order to afford that luxury to the rich. If a Supreme Court is established in India, the finances of India will have to be burdened with the expense of the maintenance of that Court. That means taxation, and there is no reason whatever why this luxury should be enjoyed by the rich at the expense of the poor."

Well, Sir, that argument, I suppose, holds good even today. I am not, as I said, competent to express an opinion whether the existing system of appeals to the Judicial Committee of the Privy Council is satisfactory or not, but here again I have got the authority of the late Pandit Motilal Nehru when he said that in most cases the cost of a Privy Council appeal is prohibitive, but not always:

"In any case, I think, whatever hardship is at present suffered on that score is not too high a price to pay for the justice that is ordinarily obtained in the Privy Council."

Sir, Pandit Motilal Nehru could not be accused of having a partiality for English institutions, and when a person of his eminence says that the price that has to be paid for justice in the Judicial Committee of the Privy Council is worth paying, I at least am prepared to accept that dictum of the late Pandit Motilal Nehru. Sir, the venerable Pandit used another very practical argument. He said:

"It will be difficult to find competent men to occupy seats on the bench of the Supreme Court of India outside the ranks of the superannuated Judges or Chief Justices or perhaps also equally superannuated members of the Bar."

It is quite possible that that has changed now and that under the existing circumstances we might have eminent men like our friend Sir Hari Singh Gour to adorn the Bench of the Supreme Court, who might agree to undertake that sacrifice, but still, Sir, this is certainly a matter that ought to be seriously considered. And, Sir, in concluding his magnificent speech, the venerable Pandit said this:

"I quite agree that the time for it will be when we are a self-governing people, and not a day before."

Mr. B. Das: Now is the time.

Mr. R. K. Shanmukham Chetty: And the time will soon be when we will be a self-governing people, and my advice to my friends will be, let that self-governing country decide whether we should have a Supreme Court or not. We are not a self-governing Legislature, and therefore let us not rush in where angels like the late Pandit Motilal Nehru feared to tread. My friend Mr. Ranga Iyer made another excellent contribution to the debate on that occasion, and he said, concluding his speech,—"What we want is not a Supreme Court but supremacy". We are going to get that supremacy in the near future, and when we do get that, let us decide whether we should have a Supreme Court or not.

Mr. C. C. Biswas (Calcutta: Non-Muhammadan Urban): Sir, I was not here all the time this debate was going on, but I am not quite sure if I should count that as a disappointment. I cannot claim to have made a study of this question with that thoroughness with which some of my friends like Sir Hari Singh Gour and others have gone into it, but I do not mind telling the House that I am not at all enamoured of this idea. We are all aware that one of the worst things in India is its system of never-ending litigation. It is a bane, and the less we have of it, the better. I wish I could sweep away the multiplicity of courts which burden the country already. Instead of adding one more appellate court, I should have thought the remedy which my friends should suggest was in the opposite direction, a diminution in the number of courts of appeal in India. I am not quite sure what is in the mind of my friend who has sponsored this Resolution, whether he and his friends who have supported this Resolution want a Supreme Court in place of the Privy Council, or in addition to it. If it is to be in addition to the Privy Council, I for one do not see the justification for any such institution. For one thing, there is no such thing as an absolutely correct final judgment. Is it not after all a convention that what the final court of appeal says is the last word on the subject? It is a matter of indifference which is the final court of appeal. No doubt, we must take steps to see that the constitution of the final court of appeal is as good as one might possibly make it; we ought to make it as perfect as we can; but having constituted the court of appeal, we must leave it to say the final word. There is no point in setting up over that final court of appeal yet another higher tribunal; theoretically, there will be no end to the process. The result will be only to encourage more appeals. The Privy Council is already there. My friend Mr. Chetty reading from the speech of the late Pandit Motilal Nehru pointed out that the cost of appeals to the Privy Council is prohibitive. I do not consider that to be an unmixed evil. The very fact that the cost is prohibitive compels many suitors in India to be content with the High Court decision as the final judgment. The luxury of an appeal to the Privy Council is for those who can afford it; let them go to the Privy Council by all means. But if on the other hand you have a Supreme Court in India sitting as an appellate authority over your High Courts, the result will be, the suitor will beg, borrow and steal in order to carry his case to the Supreme Court, and take his chance. We know how families have been ruined in their craze for obtaining justice from court to court in this country. The very fact that the Privy Council is sitting at a distance of 6,000 miles away itself acts as a wholesome check on the proclivities of litigants, and that I consider to be a blessing in disguise. If, however, you have a Supreme Court in India, in 95 cases,

if not in 99 out of every 100, you will find parties anxious to be trying their luck in the Supreme Court. I do not consider, Sir, that to be a consummation to be devoutly wished for.

There is also another matter to be considered. In the cases which are or which can be now taken up to the Privy Council, there is a feeling that the decisions of the Privy Council are generally just and right, and those decisions command public confidence in this country. One reason is that their Lordships of the Judicial Committee are supposed to be, as they actually are, above all extraneous influences. On the other hand,—I speak with the utmost respect,—we are aware of instances in which the decisions given by even the highest courts in India have been carped and cavilled at, because it has been openly suggested that the Judges were not above executive influences. In any case the circumstances in this country have made it possible to make suggestions of that kind. On the other hand, when you have the Privy Council deciding a case, I have not in my limited experience heard even a faint whisper that the Judges of that tribunal were susceptible of any such influences. If we have a Supreme Court, the result will be this: you cannot avoid things of that kind being said of the Supreme Court. Is that something to be desired? On these practical grounds, I do not think we should be justified in recommending from this side of the House yet another court of appeal in India. The High Court is there, and it ought to be quite enough for all practical purposes.

The Honourable Sir Brojendra Mitter (Law Member): Sir, if I intervene in this debate, it is because of my partiality for anything which savours of law. The position of the Government has been explained by the Honourable the Home Member. Therefore, whatever I am going to say now is in my capacity as a lawyer who has ceased to practise and probably on that account, in a position of greater detachment than many of my Honourable friends opposite who are in active practice.

Sir, this question can be approached from different points of view. There is the lawyer's point of view, of which we have heard a good deal this morning. There is the point of view of the litigant; there is also the point of view of the State, the community at large. Sir, the point on which attention was mostly concentrated this morning was criminal appeal—that there should be a Supreme Court dealing with criminal appeals in cases where death sentences have been passed. One of the arguments adduced by Mr. Puri was that if there be two appeals in civil cases, why should there not be two appeals in criminal cases. I was amazed to hear that argument from an experienced lawyer like my Honourable friend. Is not there a difference between civil cases and criminal cases, a fundamental difference between the two? Is there not a difference between a private right and a public right? What are civil cases? Civil cases arise when private rights are infringed and the injured person goes to court for redress for the infringement of his private right. What is a criminal case? There it is infringement of the right of the whole community; that is a criminal case. It is of the essence of criminal justice that it should be speedy. That is not of the essence of a civil case. A learned judge in England has said that cost is the panacea which cures all sores in civil litigation. If litigation is prolonged, if costs are incurred, there is compensation there. But in a criminal case the community has no such compensation, and therefore it is of the essence of a criminal case that justice

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should be speedy. In order that justice may be speedy it is not desirable that you should multiply courts of appeal. I was somewhat astonished to hear from my Honourable and learned friend Sir Hari Singh Gour that there was really no appeal in criminal cases. I may be doing him an injustice, but my understanding of what he said was this that a trial takes place in the Sessions Court and the verdict of the Sessions Court is a mere recommendation to the High Court, and when the High Court hears the matter it is not by way of appeal but merely by way of reference.

Sir Hari Singh Gour: What I said was that the recommendation of the Sessions Judge does not take effect until it is confirmed by the High Court, and it is only during those proceedings that the High Court hears both sides. After confirmation and passing of the final sentence and order there is no appeal.

The Honourable Sir Brojendra Mitter: There is a whole chapter in the Code of Criminal Procedure which deals with appeals in criminal cases, appeals from Sessions Courts. What happens in murder cases is this. The prisoner lodges his appeal, and at the same time there is reference by the Sessions Judge for confirmation of the sentence. But that does not do away with the appeal. The appeal is there. There is an appeal in criminal cases.

Sir Hari Singh Gour: Against the final judgment of the High Court there is no appeal.

The Honourable Sir Brojendra Mitter: Of course, there is no appeal from the final judgment of the High Court. There is no appeal from the final judgment of any court in any country because otherwise it would not be final. What happens in England? What is the system in England? Have you got two appeals in captial sentence cases? No. There is only one, and some years ago there was none. It is only recently that an appeal court has been established in England.

Sir Hari Singh Gour: Is there any court like that in India?

The Honourable Sir Brojendra Mitter: Yes, we have got the High Courts of Judicature in India. They are the final Courts of appeal in every murder case. What is proposed is that there should be another court sitting in appeal over the High Court in these cases. What would be the result? The result would be delay which means in many cases defeat of justice. I began by saying that there are three points of view. The lawyer point of view we have heard this morning. A cynic has said, more appeals more work. I do not endorse that. What is the litigant's point of view in a criminal case? To get an acquittal anyhow.

Sir Hari Singh Gour: To get hanged as soon as possible!

The Honourable Sir Brojendra Mitter: To get an acquittal anyhow, and the larger the number of appeal courts the greater is the chance of escape. (*An Honourable Member*: "Will there not be more justice?") I am coming to that presently. The point of view of the State, the point of view of the community at large is this, that justice should be vindicated (*An Honourable Member*: "And not be vindictive.") That is the supreme test,—that justice should be vindicated, that a guilty person should not escape, nor an innocent person be punished. The point of view of the State is that justice should be done, and that speedily.

Now, then, we have got our system. It is an elaborate system which has existed for many years in this country. That system starts with a police investigation. Then there is a magisterial enquiry; then there is a regular trial in a sessions court with the help of either jurors or assessors; and there is the final appeal to the High Court. There is this system which has been in existence in India all these years. It has been said that the first two stages, that is, police investigation and magisterial enquiry, are useless,—they are not very efficient. But is that any reason why an additional appeal court should be established? What does the appeal court do? The appeal court decides the case on dead record. The appeal court does not see the witnesses. All the work is done in the preliminary stages, in the stage of the police investigation, in the stage of the magisterial enquiry, and at the trial. If these are inefficient, if you say they are useless, then your additional court of appeal will be equally useless, because that appeal court will have to decide the case upon dead material which had been produced at these earlier stages.

Sir Hari Singh Gour: Upon what materials does the Court of Criminal Appeal in England decide these cases?

The Honourable Sir Brojendra Mitter: Mostly upon questions of law.

Sir Hari Singh Gour: You are making a reservation. Have you got a court like that here?

The Honourable Sir Brojendra Mitter: I do not suggest that every case is decided on a question of law, because, then, an open appeal would not be given; I say, mostly, on questions of law. It is the merits which you have to see are properly investigated, and not a multiplicity of courts of appeal which decide upon dead evidence. My submission before the House is this, if you want criminal justice in this country improved, concentrate on improving defects in the existing machinery, but the addition of another court of appeal will not give better justice.

My learned friend Sir Hari Singh Gour said this is a matter of fundamental right. I do not quite appreciate what he meant by fundamental right. We have got the right of appeal. Is there any such thing as a fundamental right to a second appeal? I have never heard of any such fundamental right in any advanced system of jurisprudence. The fundamental right is that a proper court should adjudicate. That is the fundamental right of every citizen, and in order to correct errors of the ordinary court, in most systems of law an appeal is provided. I may say that this is a corollary of the fundamental right to justice. But where this second appeal comes in as part of the fundamental right of the citizen, I fail to understand. Sir, the Resolution deals with two matters. One is the establishment of a Supreme Court and the second part deals with the functions of the Supreme Court. As regards the establishment of the Supreme Court, whether it is necessary or not, I express no opinion, although I hold decided opinions on that point. As regards the second part, what I wish to bring to the notice of the House is that some of the functions mentioned here are such that I for one would never subscribe to. That is the establishment of a second court of criminal appeal and the abolition of the Judicial Committee of the Privy Council.

Mr. B. R. Puri: Nobody has said "abolition".

The Honourable Sir Brojendra Mitter: It is abolition of the Judicial Committee of the Privy Council and the substitution of a mock Privy Council in this country. That is the proposal.

Mr. B. R. Puri: You may happen to preside over it. Don't call it a mock Council.

The Honourable Sir Brojendra Mitter: I do not want to preside there. I may practise there. Now, the functions of the Supreme Court as laid down here are to hear civil appeals now heard by His Majesty's Privy Council and generally to carry out the work at present entrusted to His Majesty's Privy Council. I read these two clauses as abolition of the existing Privy Council dealing with Indian matters and the establishment of a court with similar jurisdiction in this country. As a lawyer who has had some experience of cases I would strongly object to these two parts, if I had a free vote, but the Honourable the Home Member has said we were not voting, and besides, I have no vote.

Sir Hari Singh Gour: You forget you have no vote in this House.

The Honourable Sir Brojendra Mitter: I realise that. Even if I had a vote, I could not, having regard to what the Home Member has said. My appeal to the House is this. This is not such an easy matter as is sought to be made out. This is a matter of very great gravity. My friend Mr. Chetty has pointed out the view, which an experienced man like Pandit Motilal Nehru held not very long ago and those are considerations which should not be lightly brushed aside. Do not lightly commit yourself to a view and do not be carried away by mere enthusiasm. This is not a matter of enthusiasm. This is a matter for cool thinking.

Mr. A. Hoon (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): Sir, I rise to support the Resolution as put forward by my Honourable friend Mr. Puri. I am afraid as the debate has been proceeding, lots of misunderstandings and misconceptions have been creeping into it. We find that there are some Members of this House who at the early part of the debate were giving us this advice only—"Wait, there is no hurry." "We are going to get something like what you want very soon and as such there is no use discussing a Resolution of this kind at this stage." A gentleman from Bengal who, I understand, belongs to the legal profession has sung a different tune altogether and he has given us to understand that people in this country are not fit either in view of their integrity or in view of their honesty to hold the positions of judges of a Supreme Court in India. If this is true, I am extremely sorry to hear this. We have got to make the best of the men we have in our own country. Whatever may be the kind of people that we have, we insist upon having our own judges and a final appeal court in our own country. A European gentleman from Madras, who is evidently holding a brief for the minorities, has to my regret thrown out a suggestion today, saying, "Why don't the members of the minority communities come forward and raise an objection to the establishment of a Supreme Court", because he thinks that it is the privilege of the majorities to say that they will have no confidence if a Supreme Court is established in India. My answer to that gentleman is that if the members of the minority communities, who I believe are generally said to be poor as compared with the members of the majority community, want to take their cases to the Privy Council, they may have that privilege. Let the other people who want their cases decided cheaply and nearer home have

them decided here although I am sure that by the time we establish a Supreme Court in India my friend will reconcile himself to that position. Without going into the question as to whether it is going to be a Federal Court or a Supreme Court, I look at the Resolution entirely from the point of view that it is due to us that we should have a proper second court of appeal in criminal cases in this country. We are told that the Federal Court will soon come into existence. We are also told that a Supreme Court will soon come into existence, but is it not a fact that there is a reasonable apprehension in our minds that this need of ours is likely to be overlooked because I find that an ambiguous answer has been given on this matter in the reports of the Round Table Conference. What we want is a definite assurance, as Mr. Azhar Ali has said, that when a Supreme Court is established, we will have the privilege of a second court of appeal in criminal cases. I am sorry I was not here when my Honourable friend Mr. DeSouza spoke with regard to the merits of the Sessions Judges in general, but I can safely bring it to the notice of the Honourable the Home Member that considering the number of appeals that the Government have filed from the decisions of the Sessions Judges in the United Provinces of Agra and Oudh, he should be able to come to the conclusion that there is room certainly for a third person to intervene. The number of such appeals Sir, has risen very considerably. I do not know if Mr. DeSouza thinks that the acumen and the ability of the Sessions Judges in the Bombay Presidency have gone up of late, but certainly in view of the Government appeals the quality of the work turned out by the Sessions Judges in the United Provinces is not considered by the Government themselves to be so good as it used to be in the pre-reform days. It has been suggested that there is a right of criminal appeal in cases which are decided by Magistrates. I have no quarrel with the work that Sessions Judges do, but in important and serious cases, especially in cases of capital sentence regarding which appeals go to High Courts it is only fair that one should have a chance of going to a third party as well. My friend the Honourable the Law Member has said that if you want to improve the judicial system in this country you should try to improve the subordinate judiciary. Well, Sir, we have been asking the Government for years and years to separate the judicial and the executive functions, but they have refused to do so. We have got no alternative now but to ask for a third and comparatively more independent tribunal in our own country. I quite understand that it is possible that the Supreme Court that we shall establish in this country,—unless conditions considerably improve,—is likely, due to the atmosphere in which the courts exist, directly or indirectly, to be affected by the spirit of the executive, but I know that Sessions Judges are more independent than the Magistrates; the High Courts are more independent than Sessions Judges, and we hope that the Supreme Court Judges will be more independent than the High Court Judges. We have got to make the best of a bad bargain and that is all that we want. So, if the Government give us an assurance that they will incorporate the clause of a second appeal court in the new constitution I am sure that the Members on this side of the House will be fully reconciled.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, I should not have spoken today because it is more or less a lawyers' day but for a stray observation of my Honourable friend Mr. Shanmukham Chetty. He did me the honour of quoting from one of my utterances which I had made when I belonged to the Swaraj Party of which the late Pandit Motilal Nehru was the Leader. I do not

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[Mr. C. S. Ranga Iyer.]

want to recall to Mr. Shanmukham Chetty the discussions that took place at party meetings because party meetings, even though we have almost reached the stage of history, may be treated as confidential, but this much I may say, that there was a difference of opinion within the party in regard to the particular subject before us. Once a matter was made a party question, the party decided to present a united front and I had to obey the mandate of my Leader—that—was when he called upon me to reply to Mr. Mohammad Ali Jinnah, who met his arguments. Sir, much water has flowed down the Jumna since that observation was made by the great Pandit. If Mr. Chetty only took the trouble of reading the Nehru Report, he would find adequate references in it and also commonsense reasoning as to why a Supreme Court should be established in India. He quoted me as saying that I believed in a Supreme Court only when supremacy was established in India. We are today within sight of supremacy. My friend Mr. Arthur Moore in one of his magnificent speeches on the floor of this House, when the Round Table Conference idea was suggested and accepted, spoke of the coming supremacy. I may have occasion one of these days to quote that speech against Mr. Arthur Moore if he wanders into the region of suspicions and doubts and pessimism which he has not so far done except when he supports things that he thinks are necessary to support in order to usher in the dream which he dreamt on the floor of this House. Sir, I may also straightaway say that even supposing for a moment that I held an opinion that a Supreme Court should not be established in India then and the debate took place long before the Round Table Conference was in sight, I am perfectly entitled to change my opinion. Sir, "consistency in politics", as a great British politician once said, "is the virtue of an ass." (Laughter.) Emerson said "Consistency is the hobgoblin of little minds." Therefore, I should not be afraid of being called inconsistent, even supposing that some years ago I thought that a Supreme Court was not necessary because the Government had not taken such rapid strides in the direction of introducing supremacy in India.

Now, coming to the Round Table Conference itself, Honourable gentlemen in the Round Table Conference had expressed themselves strongly in favour of a Supreme Court. This is what they have said:

"A substantial minority of the Committee is strongly of opinion that the establishment of a Supreme Court for British India is a matter of urgent necessity and that such a Court should be set up by an Act of the Constitution itself without necessarily waiting until the time when the Federation comes into being."

That is the observation which I have just quoted from the Round Table Conference Sub-Committee's report which also includes the Prime Minister's statement, dated the 7th September, 1931 to 1st December, 1931. So much from the Round Tablers' point of view.

Sir, I do not very much think that there is sound argument in those who put forward their case thus! The Round Table Conference is in possession of this idea or the idea contained in this Resolution, therefore it will be well for us to leave the matter there. I think this Assembly has its own duty to perform. In a sense, it is more important than the Round Table Conference itself. The Round Table Conference owes its origin to the decision of His Majesty's Government and the nominees on the Round Table Conference are the representatives of His Majesty's Government. Representatives of public opinion are the Honourable Members seated on this side of the House. I would leave the matter there at present. I do not think it would be possible for us to discuss in this

House any single question if we agreed to the suggestion that the Round Table Conference is in possession of it. If we agree to that conclusion, we cannot discuss anything here, because anything and everything that we are putting forward from this side of the House is being discussed by the Round Tablers. Moreover, I do think that the Round Tablers sometimes require a lead even from this House. (Hear, hear.)

Sir, a maiden speech from the non-official European Benches, very clear and impressive, which we listened to with great pleasure dwelt upon the financial difficulties in regard to the establishment of a Supreme Court in India. But I am sure the very talented maiden speaker would recognise that even at present India contributes, I believe, £4,000 every year to the two Members of the Privy Council. That shows that India has not shirked its own financial burden, but I would not put it like that. I would put it on a higher moral consideration. Are we not to pay for justice if justice has got to be paid for a little more than we pay at present? Financial considerations should not stand in the way when considerations of justice have got to prevail. My own idea is that the poor people cannot afford to go to the Privy Council at present. So, if there were a Supreme Court in India, the opportunity that the rich man gets at present will also be thrown open to the poor man. I find the Honourable the Law Member shaking his head, but I would, with great respect to him, say that the introduction of a Supreme Court in India will also be satisfying from the poor man's point of view.

The Honourable Sir Brojendra Mitter: Litigation is not for the poor man.

Mr. C. S. Ranga Iyer: Litigation is not for the poor, but some people are rendered poor by too much of litigation. (Laughter.) Sir, I shall not take more time of this House because I find my friend Mr. Puri has been taking notes and the House is anxious to hear him.

Mr. F. W. Allison (Bombay: Nominated Official): I think that in every session since 1926 when I first had the honour of being a Member in this Assembly there has been a Resolution similar to the present one. In fact on previous occasions, I remember I had the privilege of speaking against such motions. I do not think it is possible that anything fresh can be said on either side with regard to the subject in general. But I rise to beg the indulgence of the House for not more than a few minutes; and I want to refer to one point of some importance which I am surprised has not been touched upon by any of the learned gentlemen who have spoken in favour of this motion. I am referring to death sentences passed by Chartered High Courts in the exercise of their original jurisdiction, that is after trial by jury. My Honourable friend Sir Hari Singh Gour just now told the House that there was no appeal from a death sentence passed by a High Court, and perhaps technically he was right. I am sure he was not trying to mislead the House. But every legal Member of this House knows that in certain circumstances when a death sentence has been passed by the High Court in its original jurisdiction, there may be a reference to a Bench of the High Court which has all the powers of a Court of appeal.

Mr. B. R. Puri: What provision?

The Honourable Sir Brojendra Mitter: Clause 26 of the Letters Patent of Calcutta, Bombay and Madras.

Mr. F. W. Allison: These circumstances arise when the Advocate-General gives a certificate that a substantial point of law is involved; and if he gives that certificate, the whole case is handed over to a special Bench of the High Court which has all the powers of an appellate Court. I think it is rather an important point, and I could not gather from what was said by those in favour of the motion as to what would be the functions of a Supreme Court in this case. Surely, in my opinion, and the Honourable the Law Member has expressed the same opinion, any appeal from a death sentence to the proposed Court would be on a point of law. In the case of these death sentences passed by the Chartered High Courts in their original jurisdiction you have what practically amounts to an appeal; and I think in those cases it would be absolutely unnecessary to have a further appeal to the proposed Court. In no civilised country is there a second appeal of that kind. That is the only point that I wanted to bring to the notice of the House.

Mr. B. R. Puri: Sir, I have listened with great patience to the very able speech delivered by the Honourable the Law Member and I propose to deal with the points raised by him. He began by giving us a definition of what is a civil case as distinguished from a criminal case. He said that private rights are supposed to have been infringed where there is an ordinary civil case, but in the case of criminal litigation, it is always the infringement of rights of the community that is involved. For that reason, he said that the trial of a criminal case necessarily is required to be very speedy, and because we want to have the whole proceedings terminated speedily, therefore, according to his argument that would furnish by itself a justification for curtailing the appeal. Now this is a very lengthy and rigmarole argument, and I should have thought that a gentleman with the experience of the Law Member should have known that there is such a proposition as that the more serious an offence, the more conclusive and cogent should be the proof, and if that is a correct proposition and a correct principle, then I submit that where, in order to bring home the guilt of an accused person, very strong proof is needed, it *a fortiori* follows that there should be a better and a greater scrutiny into the nature and character of that evidence before you condemn the man. If it is necessary in order to bring home that offence or charge to a man that there should be strong proof duly scrutinised, then I submit on his own showing he has conceded that a right of appeal in those cases would not certainly be considered a luxury. It would be an appeal of necessity. Whatever may be the view with regard to multiplicity or the curtailment of the right of appeal or further appeal, so far as the infringement of civil rights is concerned there is no getting away from the fact that because a person is put on his trial for a criminal offence there should be every facility afforded to him more than the facility already due and given to a civil litigant. So far as the speedy character of these trials is concerned, I do not know if my Honourable friend has recalled to his mind,—if not then I will remind him—that this so-called definition of speedy trial is merely on paper. May I remind him that some of the most notable trials in this country have been unduly long, and one is proceeding now not very far away from here, within a distance of three or four miles of Delhi itself where, after a protracted trial of 13 months, they have just been able to get through the evidence of the first prosecution witness. Is this a sample of your speedy criminal trial? And is this a definition of it? May I further remind him that in Meerut, only 40 miles from here, there is another

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speedy trial which has been in progress for over three years and the Secretary of State this morning we knew had expressed the hope that some kind of decision would be arrived at next summer.

The Honourable Sir Brojendra Mitter: Would a further appellate court make it speedier?

Mr. B. R. Puri: This is the practical method of disposing of infringement against the rights of a community on the criminal side speedily. This is the practical way in which criminal cases are speedily decided, whatever may be the definition of it on paper according to the lights of the Honourable the Law Member. His next point was that we were really attempting to abolish with one stroke the existing Privy Council and we were trying to substitute for it a mock Privy Council. In the first place let me remind him that there is absolutely no attempt on the part of anybody on this side of the House to urge for a single moment the abolition of such an august body as the Privy Council. The Privy Council is justly regarded as a tribunal of great integrity, the highest learning and wisdom which has placed on record the most momentous decisions on most intricate questions. The Resolution itself sufficiently safeguards that. As a matter of fact it is open that in the present constitution, which is now under discussion before the Round Table Conference, they may follow the same lines on which the constitution has been granted to South Africa. Or they may choose in the alternative the constitution which has been granted to Australia. Now, Sir, in Australia and Canada, although in the first instance locally there is an appeal provided from the decision of the High Court and every party is entitled to seek his final right of appeal locally in the Supreme Court, nonetheless he is not debarred, if he so chooses, from going straight to the Privy Council instead of filing his appeal in the local Supreme Court. It is open to the Round Table Conference in their constitution to lay down that the constitution in India with regard to the Supreme Court should follow the same line and course as is given and granted in the constitutions of Canada and Australia.

Now, Sir, with regard to the personnel, I think it was a most ungenerous observation on the part of the Honourable the Law Member to say that it would be a mock tribunal. May I know what justification he has for saying that about any tribunal, and a tribunal, mind you, of the highest character, which tribunal is to safeguard and uphold the future constitution of this country, and which court, I may incidentally remind him, is going to be created by the constitution itself? If that is his view, and if that is his opinion with regard to the qualifications of people who have to constitute that court, all I can say is that he has got a very very poor idea about his own countrymen. Now, Sir, if that is a good argument, then I think the sooner you abolish the High Courts the better it will be; because after all for some time to come at least, perhaps for all time to come, we shall have to draw upon the existing personnel of the High Courts in order to find our Judges for the Supreme Court. And if the Supreme Court composed of these Judges is to be looked upon as a mockery, then I submit your High Courts will be occupying no better place.

With regard to the favourite argument which was adopted by Mr. DeSouza and also by the Honourable the Home Member, that our proper course is to concentrate ourselves upon improving the police and improving the Magistracy and improving the Sessions Courts rather than provide

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another court of appeal, I will ask the Honourable the Home Member in all humility, does it lie in his mouth to say that we should attempt to improve the police and the Magistracy?

The Honourable Sir James Crerar: Sir, if I may interrupt the Honourable and learned gentleman, my argument was not that we should concentrate upon improving the police forces, but that he himself was adopting a very unconvincing and a very unwarranted argument when he based his case for a Supreme Court of criminal appeal on strictures passed upon the police and upon the judiciary.

Mr. B. R. Puri: Sir, I am not convinced in spite of his championing the cause of the police. But what I was going to urge was this, that it does not lie in the mouth of a responsible Member of Government to tell us that we should concentrate upon reforming the police, be it from the Honourable the Law Member or be it from Dr. DeSouza. None the less it has been one of the principal arguments which has been addressed to us that the creation of another court of appeal would be no cure for the defective system, whether it be that of the police or of the Magistracy, which is already in vogue. That was the argument which was put forward seriously, and I propose to deal with that proposition. My submission is this, that it does not lie in the mouth of the responsible Members of Government to tell us that we should try to improve the police and other departments of Government when they have not got the patience to listen to just and legitimate criticisms against that body of public servants. My Honourable friend the Home Member was at pains to get up twice in order to champion the cause of and to protect the police. But I have not maligned the police. All that I said was that we have not got an ideal police in this country, and that the police in England was far more conscientious, far more competent, than the police in this country. Those were my words. The Honourable the Home Member in his own mind has tried to magnify what I stated and has been feeling highly uncomfortable and stood up time after time to try to protect that, according to him, much maligned body of public servants, whereas as a matter of fact I had said nothing of the kind. And mind you, Sir, I am not afraid to say that I know as much as anybody else does with regard to the doings of the police, but I refrain for certain reasons. If it should be necessary, I could place before the House instances which have only recently happened, instances where people have been challanned and sent up, the committing Magistrate heard the evidence and committed the accused to session, and the Sessions Judge convicted him; and in the meantime a parallel investigation is proceeding in the neighbouring district and the same dacoity which is the subject-matter in which the sentence of death had been passed is investigated and traced to certain other culprits, and they challanned those people with the result that Government did not know what position to take up in the High Court when the convicted persons actually preferred their appeals. This incident happened only two weeks ago in the Lahore High Court, and if the Home Member desires I can give him the number and references so that he can send for the records. But I am not here to multiply instances. All that I stated and all that I shall with all respect and without fear of contradiction always state, is that we have not got an ideal police in this country, and further, when you compare them with the police in England, those people are far more competent and far more honest than they are here.

With regard to the Magistracy I have been accused of maligning the Magistrates. Sir, I wish again to remind the Honourable the Home Member that all I stated was that the Magistrates were helpless in this matter, that they were mere machines, that they were required to do only mechanical work, that they were not allowed to bring their minds to bear upon those points which were brought in evidence before them and that they play merely the role of post offices who merely send the cases up to the Sessions Court for final decision. That is all that I stated. (*A Voice*: "Question.") Somebody in that corner says "Question". This "Question" I have heard before, and let me tell my Honourable friend, whoever he is that challenges the accuracy of this statement, that I can quote a number of cases in which the Magistrates have taken upon themselves the duty and the responsibility of discharging an accused person, and at once a revision is filed and these people are committed to the Sessions straightaway; and it has been held time and again that it is not for the committing Magistrate to decide whether it is a case in which the accused person will be discharged or not, but all that he has got to see is whether the case is good enough to be tried in the sessions. He is not to give any decision with regard to the matter.

With regard to the Sessions Courts, if the Honourable the Home Member will kindly try to refresh his memory, all that I said was that I have got no complaint or grievance against the Sessions Courts, but what I submitted was that the atmosphere of the Sessions Court with that beautiful institution of yours which goes by the name of assessors was not a genial atmosphere in which the questions of life and death of the people should be determined. And compare that with the corresponding trial which takes place in England. Here in this country there are all sorts of judicial officers presiding in the Courts of Session. I have known cases where judicial officers with an experience of sometimes not more than three or four years are pitchforked into the position of Sessions Judge and called upon to try death sentence cases. Any number of cases I can cite. Compare this with the atmosphere which prevails when you come to deal with an Englishman's life there in England; a High Court Judge presides at Old Bailey to try cases where a death sentence is involved and from his decision there is an appeal to the Court of Appeal. Give me that corresponding provision here. Let High Court Judges here preside in all Sessions cases. I will not worry you with even a second appeal. That is the position I am claiming. But when you give me experienced officers of three or four years' standing,—perfectly honest—they try to do their duty to the best of their lights—but you give me this atmosphere with all these uneducated half-naked assessors sitting there (Laughter)—on one occasion I remember a Sessions Judge, looking at a man, asked him. "Are you aware of and do you realise your responsibility?" and he turned round with the answer. "Sir, I am a plain man; I am an honest man. I do not go by what the lawyers say and I do not go by what the Judges say. I look at the man in the dock and I say to myself, 'Well, this man must have done something; otherwise he would not be here and I will bring in my verdict accordingly'." It is with that class of persons that we have to deal; and yet we are denied a right of appeal in a case in which the lives of people are involved. I submit that the least that is due is to give us the right. The strongest point that I would urge for the consideration of the House is to be consistent: deny all appeals also on the civil side; but when you allow

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appeals against decisions and judgments of High Court Judges in civil cases, when you permit appeals to be preferred and filed in the Privy Council, how can you consistently and fairly deny the same right where the people's lives and liberties are involved in criminal cases? (Applause.)

Mr. President: The question is:

"That this Assembly recommends to the Governor General in Council to take early steps to secure that a Supreme Court is established in India with power:

(*a*) to interpret and uphold the constitution;

(*b*) to act as a court of final criminal appeal against all sentences of death;

(*c*) to act as a revising court in specified serious cases;

(*d*) to hear civil appeals now heard by His Majesty's Privy Council; and

(*e*) generally to carry out the work at present entrusted to His Majesty's Privy Council;

provided that such court shall not affect His Majesty's prerogative safeguarded in the constitutions of Canada, Australia and South Africa."

The Assembly divided:

AYES—34.

Ahmed, Mr. K.	Liladhar Chaudhury, Seth.
Azhar Ali, Mr. Muhammad.	Misra, Mr. B. N.
Bhuput Sing, Mr.	Pandit, Rao Bahadur S. R.
Chinoy, Mr. Rahimtoola M.	Parma Nand, Bhai.
Das, Mr. A.	Puri, Mr. B. R.
Das, Mr. B.	Puri, Mr. Goswami M. R.
Fazal Haq Piracha, Shaikh.	Raghubir Singh, Kunwar.
Gour, Sir Hari Singh.	Rajah, Rao Bahadur M. C.
Gunjal, Mr. N. R.	Ranga Iyer, Mr. C. S.
Harbans Singh Brar, Sirdar.	Rastogi, Mr. Badri Lal.
Hoon, Mr. A.	Reddi, Mr. T. N. Ramakrishna.
Ismail Ali Khan, Kunwar Hajee.	Sadiq Hasan, Shaikh.
Isra, Chaudhri.	Sarda, Diwan Bahadur Harbilas.
Jadhav, Mr. B. V.	Sukhraj Rai, Rai Bahadur.
Jog, Mr. S. G.	Uppi Saheb Bahadur, Mr.
Joshi, Mr. N. M.	Wilayatullah, Khan Bahadur H. M.
Lalchand Navalrai, Mr.	Ziauddin Ahmad, Dr.

NOES—17.

Abdul Matin Chaudhury, Mr.	Morgan, Mr. G.
Biswas, Mr. C. C.	Scott, Mr. J. Ramsay.
Cocke, Sir Hugh.	Sen, Mr. S. C.
DeSouza, Dr. F. X.	Shafee Daoodi, Maulvi Muhammad
Fox, Mr. H. B.	Studd, Mr. E.
Gidney, Lieut.-Colonel Sir Henry.	Sykes, Mr. E. F.
Heathcote, Mr. L. V.	Tait, Mr. John.
Maswood Ahmad, Mr. M	Wood, Sir Edgar.
Moore, Mr. Arthur.	

The motion was adopted.

Mr. President: I should like to ask Honourable Members whether they wish to take up the next Resolution at this hour or whether they wish to adjourn. (*Several Honourable Members*: "Adjourn: Adjourn.")

Very well, I take it that the House wishes to adjourn.

The Assembly then adjourned till Eleven of the Clock on Friday, the 12th February, 1932.

LEGISLATIVE ASSEMBLY.

Friday, 12th February, 1932.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President in the Chair.

QUESTIONS AND ANSWERS.

LACK OF NOTICE TO STAFF RETRENCHED IN THE OFFICE OF THE CHIEF ACCOUNTS OFFICER, NORTH WESTERN RAILWAY.

224. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Jagan Nath Aggarwal): (*a*) Is it a fact that neither any due notice nor one month's pay in lieu of notice has been granted to any staff having more than 12 months' continuous service, brought under retrenchment by the Chief Accounts Officer, North Western Railway, Lahore? If so, why? Are Government prepared to consider all cases of this hardship now?

(*b*) Are Government aware that the Chief Accounts Officer, North Western Railway, while conveying Railway Board's orders regarding grant of leave at the credit of discharged employees has restricted the benefit of granting the leave to the staff discharged only after 23rd December, 1931; although the Railway Board desired to give the orders retrospective effect from 3rd March, 1931? Will Government please say if the Chief Accounts Officer had instructions to restrict this privilege to the Accounts staff? Are Government prepared to remove this restriction?

Sir Alan Parsons: (*a*) Most of the men who were discharged were engaged in temporary vacancies and were liable to discharge either without notice or on 24 hours' notice. The few permanent men that were discharged had reached the age of superannuation, after which no leave was due to them

(*b*) I am making enquiries on this matter and will let the Honourable Member know the result.

RETRENCHMENT IN THE OFFICE OF THE CHIEF ACCOUNTS OFFICER, NORTH WESTERN RAILWAY.

225. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Jagan Nath Aggarwal): (*a*) Is it a fact that the Controller of Railway Accounts in reply to a memorial of the temporary Hindu clerks employed in the Accounts Department of the North Western Railway gave an assurance that the temporary men appointed before 1st January, 1929, would be treated as on equal footing with permanent men for the purposes of retrenchment, and other things being equal, they should not be discharged before permanent men who have lesser service?

(*b*) Are Government aware that the Chief Accounts Officer has retained all permanent men who have lesser service than the temporary men on

the plea that other things are not equal in their cases as permanent men were considered more efficient than temporary men at the time of their confirmation?

(c) Is it a fact that no comparison of efficiency was made at the time of their confirmation with other temporary staff in other branches?

Sir Alan Parsons: (a) Orders to this effect were issued.

(b) and (c). I am having enquiries made and will let the Honourable Member know the result.

RETRENCHMENT IN THE OFFICE OF THE CHIEF ACCOUNTS OFFICER, NORTH WESTERN RAILWAY.

226. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Jagan Nath Aggarwal): (a) Is it a fact that the Controller of Railway Accounts has ordered to leave out of retrenchment persons known as Controller, Railway Accounts' direct recruits, on the ground that they should be considered more efficient than others because of their having passed the recruitment examination (*i.e.*, Appendix B Examination) at the time of their appointment? Are Government aware that the passing of this examination was only a condition precedent to appointment, and did not give any title to those men for a preferential treatment at the time of retrenchment?

(b) Are Government prepared to order that any discharge on account of retrenchment should be made purely on the basis of the length of service, and any special cases of exceptional merits should have the consent of the Financial Commissioner of Railways? Do Government propose to reconsider the cases of irregular discharges?

(c) Is it a fact that old men who have either completed the age of superannuation or completed more than 25 to 30 years' service are being retained while young men are being turned out in the office of the Chief Accounts Officer, North Western Railway, Lahore?

Sir Alan Parsons: (a) The reply to the first part of this question is in the negative; and to the second part of the question is that, except in so far as passing the Appendix B Examination can be taken as an indication of efficiency, it does not entitle the employee to preferential treatment in the matter of discharge.

(b) Length of service cannot be the only criterion, but the Chief Accounts Officer has been instructed to carry out discharges in accordance with the orders issued by the Railway Board in their letter No. 683-E.G., dated the 3rd March, 1931, a copy of which I lay on the table. If the Honourable Member will bring to my notice any cases in which these orders have not been followed, I will certainly look into them.

(c) I am informed that no man who has reached the age of superannuation has been retained in service. The cases of other men are under consideration.

COPY OF LETTER No. 683-E. G., DATED THE 3RD MARCH, 1931, FROM THE SECRETARY, RAILWAY BOARD, TO THE AGENTS, STATE-MANAGED RAILWAYS.

Reduction in Staff.

I am directed to state that the Railway Board desire that the following general principles should be followed by State-managed Railways in carrying out reductions in staff as a result of the present economy campaign.

2. The main principle in selecting individuals for discharge should be to discharge men in the following order:

(a) those who are inefficient;

(b) those who are the least efficient;

(c) those who have short service. Among them permanent men should ordinarily be retained in preference to temporary employees but men who hold temporary appointments but who have completed 12 months' continuous service, should be regarded as having equal rights with permanent employees;

(d) those who are nearing the age of superannuation.

3. The Board also wish that all practical steps should be taken to see that the unfortunate necessity for reducing staff does not operate to the detriment of communities not at present adequately represented in railway services.

4. It may often happen in applying these principles that employees whose posts are abolished have a better claim to retention than others holding posts on a lower scale of pay. The latter would then make room for the former who should as an alternative to a discharge be offered employment in the lower posts.

5. With a view to eliminating all avoidable hardship, the Board desire:

(1) that an employee who in the circumstances explained in paragraph 4, is retained in a lower post will rank in seniority above men holding similar posts drawing the same rate of substantive pay as that allowed to him on reversion and will subject to continued efficiency be considered, when a suitable opportunity offers, for promotion to the class or grade in which he was formerly employed or to a post of equivalent or lower rank.

(2) that employees discharged from the services on reduction of establishment should be granted all leave on full or average pay at their credit subject to a maximum of 4 months, provided that if such leave at their credit is less than one month, they should in lieu of it be allowed one month's pay in lieu of notice. When, under these orders, leave of not less than one month is granted, it should be made clear to the employee that his service will not be required on the termination of his leave and that he will not be entitled to a further notice of discharge or pay in lieu of such notice.

As an exception to the above, temporary staff engaged for seasonal traffic should on discharge to the extent such staff would be discharged under normal conditions be treated in respect of leave or notice pay under the existing procedure in force on your railway. When, however, owing to the present serious fall in traffic and the uncertainty whether the traffic prospects of the next busy season will be normal further reductions in the working strength of transportation and Commercial staff are required to be made as a temporary masure, employees who are not required for duty may be allowed leave or notice pay as prescribed above or, when it is considered probable that a particular employee's service will again be required after a short time or at short notice, leave on half pay for such period as the Agent may deem reasonable but not exceeding 6 months' irrespective of whether such leave is due or not. Provided that leave not due should in no case be sanctioned unless the conditions governing the grant of such leave are complied with.

(3) that employees discharged under clause (c) of paragraph 2 should be borne on a common waiting list for the whole railway and be appointed to any suitable vacancy occurring on the railway in the future in preference to others. No outsider should, therefore, be appointed in any department, division, district or office of the railway so long as a suitable man is available from this waiting list or next after that from among the Great Indian Peninsula Railway strikers who are still out of employment. If an employee who was discharged is re-employed in a lower post, he should, subject to good work, be considered for promotion when a suitable opportunity offers to the class or grade in which he was formerly employed or to a post of an equivalent or lower rank. If, however, he refuses an offer of employment in a somewhat lower post with the prospect of recovering his former position after a time, he will be liable, at the discretion of the authority which offered him such post, to have his name removed from the waiting list.

(4) when an employee who is retained in a lower post is subsequently promoted to his former grade under the provisions of clause (1) or when an employee who is discharged is subsequently employed in his former grade under the provisions of clause (3) due consideration should be paid to the length and character of his previous service in determining his pay on such promotion or employment.

6. The foregoing instructions are not intended to apply to:

(*a*) employees whose substantive pay at the time of discharge does not exceed Rs. 30 per mensem. In respect of such employees the Agent of the Railway will determine the procedure to be followed, and

(*b*) workshop employees, including press employees, in respect of whom the Railway Board will issue separate instructions, as the conditions of their retention in the service are special.

COPY OF LETTER No. 683-E. G., DATED THE 3RD MARCH, 1931, FROM THE SECRETARY, RAILWAY BOARD, TO THE AGENTS, ASSAM BENGAL, BOMBAY, BARODA AND CENTRAL INDIA, MADRAS AND SOUTHERN MAHRATTA, SOUTH INDIAN BENGAL NAGPUR, BENGAL AND NORTH-WESTERN AND ROHILKUND AND KUMAON RAILWAYS.

I am directed to forward, herewith, a copy of the Railway Board's letter No. 683-E. G., dated 3rd March, 1931, which states the principles which the Railway Board have laid down for State-managed Railways in carrying out reductions in staff as a result of the present economic campaign.

APPOINTMENT OF SIKHS TO THE INDIAN SERVICE OF ENGINEERS.

227. ***Sirdar Harbans Singh Brar:** (*a*) Is it a fact that every year, in order to adjust communal inequalities, men belonging to different minority communities are nominated for appointment to the Indian Service of Engineers (Irrigation Branch) as a result of the competitive examination held by the Public Service Commission?

(*b*) With reference to the reply given to the question No. 278 on the 9th March, 1931, will Government please state what endeavours were made by them as a result of the competitive examination mentioned in part (*b*) thereof to give Sikhs their due share in this service?

(*c*) Will Government please state whether in this service no Sikh was nominated last year, and, if so, is that the declared policy of Government towards the important Sikh minority community?

(*d*) With a view to make up the deficiency of Sikh representation in this service, do Government propose to nominate some Sikhs as a result of the last competitive examination held by the Public Service Commission; if not, why not?

The Honourable Sir Joseph Bhore: (*a*) Yes.

(*b*) and (*c*). As stated in the reply given on 9th March, 1931, to part (*b*) of question No. 278, the claims of the candidates belonging to all the minority communities who qualified at the examination held in January 1931, were duly considered and it was decided to take candidates belonging to minority communities other than Sikhs, as those communities were inadequately represented in the Indian Service of Engineers, and as a Sikh had been taken under this provision the year before.

(*d*) The results of the last competitive examination have been received and the claims of Sikh candidates will be duly considered along with the claims of the candidates of other minority communities when the appointments are made.

THE MOODY-WARD SYSTEM OF RAILWAY TICKET CHECKING.

228. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government be pleased to state if the Moody-Ward System is a preventive system?

(*b*) Is it different to the T. T. I. and T. C. system?

(*c*) If the reply to part (*b*) be in the affirmative, will Government please lay on the table a comparison and contrast in the duties of the staff of both the above systems?

Sir Alan Parsons: (*a*) No. The object of the arrangements recommended in the Moody-Ward Committee's report, which have been adopted on the East Indian Railway, is to check the tickets of passengers after they have entered the train.

(*b*) The present system on the East Indian Railway is not in its essentials different from the previous arrangement under which Ticket Collectors were kept at stations and certain staff were employed to check tickets of passengers on trains.

(*c*) Does not arise.

DESIGNATION OF TICKET CHECKERS ON THE EAST INDIAN RAILWAY.

229. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government be pleased to state on what administrative grounds the designation of the Travelling Ticket Inspectors of the East Indian Railway has been changed to Travelling Ticket Examiner?

(*b*) As a result of this change in designation have their duties been also changed?

(*c*) Is it true that formerly the Train Ticket Checkers used to be called Travelling Ticket Checkers, then Travelling Ticket Examiners and after all Travelling Ticket Inspector?

(*d*) If reply to part (*b*) be in affirmative, will Government be pleased to state why so often the designation of these men have been changed and each time the designation was changed if the post was also abolished?

Sir Alan Parsons: With your permission, Sir, I propose to reply to questions Nos. 229, 233, 235, 236, 237, 238, 240, 244, 245, 246, 249 and 250 together. I understand that many of the matters raised in these questions are the subject of an appeal from certain of the ticket checking staff of the East Indian Railway, which is at present under the consideration of the Agent. The Agent will be asked to let the Railway Board know the result of his consideration of that appeal. I have had to call for information in regard to other matters dealt with in these questions but replies will be communicated to the Honourable Member in due course.

Dr. Ziauddin Ahmad: The Honourable Member said that the reply will be communicated to the Honourable Member in due course, which really means that the reply will not be given in the Assembly and we will be debarred from asking supplementary questions. Will the Honourable Member kindly lay the reply on the table of the House and not send a copy privately to the Member concerned.

Sir Alan Parsons: The matter is of an ephemeral nature, and when we send copies of communications of that nature to the Honourable Member putting the question, we always place copies in the Library of the House where they will be available to Honourable Members to read them if they wish to do so. In the circumstances, I doubt if it is necessary to lay copies on the table.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I should like to bring to the notice of the Treasury Benches that questions are asked in the Assembly, and it is the right of every Honourable Member of the Assembly to ask supplementary questions when replies are given. The right of asking questions has been allowed for the specific purpose of giving the whole House an opportunity of knowing what the answer is. I think that the practice which has prevailed so far of sending answers to certain questions to the Member concerned is not correct procedure. The Honourable Member asks questions with the authority of the Assembly, and the Assembly as a whole is entitled to know the replies to admitted questions given by the Treasury Benches. It is therefore necessary that all questions which have been put in the Assembly should be replied to in the Assembly. (Applause.)

Sir Alan Parsons: In view of your ruling, Sir, I will certainly lay copies of the reply on the table.

DESIGNATION OF TICKET CHECKERS ON THE EAST INDIAN RAILWAY.

230. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state if it is a fact that Messrs. Moody and Ward on page 17 para. 28 of their report mentioned "average mileage of travelling ticket examiners" under the statement of cost of staff employed before the introduction of Crew system, *i.e.*, for 1926-27?

(*b*) Is it a fact that they suggested that Crew system should be abolished and trains should be worked by Travelling Ticket Examiners?

(*c*) If the reply to parts (*a*) and (*b*) above is in the affirmative, will Government please state if the T. T. Es. suggested by Messrs. Moody and Ward are different to the T. T. Is. whom they mentioned as T. T. Es. in para. 28 of their Report mentioned above?

(*d*) Will Government please state if it was the intention of Messrs. Moody and Ward to abolish the T. T. I. system?

Sir Alan Parsons: (*a*) and (*b*). Yes.

(*c*) No.

(*d*) No. I think there is some misunderstanding. At the time Messrs. Moody and Ward reported, the system in force on certain sections of the East Indian Railway was the Crew System and it was on the question whether the Crew System should be abolished on these sections that they were asked to report. They did not deal with the question whether the system under which Ticket Collectors are kept at stations and Travelling Ticket Inspectors are employed to check tickets of passengers on trains, which was in force on other sections of the East Indian Railway, should be abolished.

Dr. Ziauddin Ahmad: As regards part (*d*) of the question, did the Moody-Ward Committee examine any system other than the crew system?

Sir Alan Parsons: Messrs. Moody and Ward did not examine any system other than the crew system.

Dr. Ziauddin Ahmad: Then why was that system adopted in places where the crew system did not prevail?

Sir Alan Parsons: Because the East Indian Railway Administration thought that that system was more efficacious than that in force on the other sections of the Railway.

Dr. Ziauddin Ahmad: There were two systems prevalent, the crew system and the T. T. I. system, and the Moody-Ward Committee recommended a third system and compared it with the crew system and never compared it with the other system. And without any comparison why was this system replaced by the Moody-Ward system?

Sir Alan Parsons: For the reason given that the East Indian Railway Administration considered that the system recommended by the Moody-Ward Committee was more efficacious than the T. T. I. system which was in force in the other sections of the Railway.

Dr. Ziauddin Ahmad: In view of the fact that the Moody-Ward Committee was definitely appointed by the Administration, will the Honourable gentleman tell me what administration decided without expert advice and examination? The Administration always means individuals, and who is the person who decided?

Sir Alan Parsons: The recommendation was the recommendation of the Agent.

Dr. Ziauddin Ahmad: The Agent took it upon himself the responsibility of deciding for the Government of India that the T. T. I. system was really inferior to the Moody-Ward system. Is it a fact?

Sir Alan Parsons: As far as my recollection goes, the matter was referred to the Railway Board.

Dr. Ziauddin Ahmad: I do not want recollections. I want facts.

Sir Alan Parsons: Then I would ask the Honourable Member to put down a question.

Dr. Ziauddin Ahmad: I will.

SYSTEM OF TICKET CHECKING ON THE NORTH WESTERN AND EAST INDIAN RAILWAYS.

231. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government be pleased to state if the Crew system on the North Western Railway was succeeded by a modified check by two men per train and the same has been the case on the East Indian Railway?

(*b*) If reply to part (*a*) be in affirmative will Government please state if the present system on the East Indian Railway is Crew system?

(*c*) Will Government please lay on the table a comparison and contrast between:

(i) The crew system on the North Western Railway and the same on the East Indian Railway, and

(ii) Modified check of two men per train on North Western Railway which followed the Crew system on that line and the present Moody-Ward system on the East Indian Railway of two men per train which has also followed the Crew system on this line?

(*d*) With reference to the reply to question No. 1113 by Sir Mohammed Yakub in the Legislative Assembly of the 18th March 1929 that:

"The crew system has not been introduced on the North Western Railway . . . . ."

is it a fact that the same was introduced on the said Railway? If so, will Government please state the reasons for the reply to the above question of Sir Mohammed Yakub?

Sir Alan Parsons: (*a*) Yes. The Crew System operated on only one district of the North Western Railway for a very short period and the modified check by two men per train subsequently was also carried on for a very short time.

(*b*) No.

(*c*) Particulars of the Crew System and of the system of checking by two men per train are given in the Moody-Ward Committee's report.

(*d*) Question No. 1113 was understood to refer, and I think did refer, to arrangements existing at the time, particularly as reference was made in it to two other railways on which a Crew System was then operating. The experiment on the North Western Railway was made between 1923 and 1925.

Mr. S. G. Jog: Why should you not change the crew system into screw system because you screw out a lot of money by harassing the passengers? (Laughter.)

OPINION OF THE EAST INDIAN RAILWAY AUTHORITIES ON THE CREW SYSTEM.

232. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state, when the Agent East Indian Railway expressed in January, 1930, that they were not satisfied with the Crew system, why the Crew Enquiry Committee was formed?

(*b*) Will Government please lay on the table a copy of the said report submitted by the Agent in January?

(*c*) In expressing their opinion that they were not satisfied with the Crew system will Government please state if the East Indian Railway authorities acknowledged that their previous recommendations were based on wrong data and unreliable figures?

Sir Alan Parsons: (*a*) Government considered it desirable that a full and comprehensive enquiry should be held, as, although the East Indian Railway Administration had reported that it was not satisfied with the Crew System it desired to continue it experimentally for another year.

(*b*) Government do not consider that any useful purpose would be served by placing on the table a copy of the East Indian Railway Administration's communication to them.

(*c*) No.

Dr. Ziauddin Ahmad: Is not the Honourable gentleman aware that in the East Indian Railway the Agent has left the entire administration in the hands of the Divisional Superintendents, to decide in their own way according to their whims and fancies?

Sir Alan Parsons: I am not aware of that.

Dr. Ziauddin Ahmad: If the Honourable gentleman is not aware of this simple A. B. C., it will be useless to ask supplementary questions. He represents the Railway Board and the Government and he does not know this simple fact of his administration.

Mr. President: The Honourable Member is making a speech. He is entitled to ask a supplementary question.

Dr. Ziauddin Ahmad: I want to ask whether the Honourable Member will make further inquiries about this and find out if what I have said is correct.

Sir Alan Parsons: The authority who addresses the Railway Board is the Agent of the East Indian Railway and it is not for the Railway Board to find out whether he invited the opinions of the Divisional Superintendents and what weight he gave to those opinions.

Dr. Ziauddin Ahmad: Is it a fact that the Railway Board has no concern whether the Agent who is left to himself to manage or mismanage it?

Sir Alan Parsons: No.

Haji Wajihuddin: May I ask whether the Honourable Member is prepared to inquire?

Sir Alan Parsons: I am not prepared to make an inquiry into the relations between the Agent and his Divisional Superintendents.

ALLOWANCES OF GUARDS AND TICKET EXAMINERS.

†233. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state what privileges a Guard is allowed and a T. T. E. denied on the East Indian Railway, for instance allowances, etc.?

(*b*) Will Government please state if the T. T. Es. are classed as running staff like the Guards?

(*c*) Will Government please state why Guards and Drivers are paid mileage allowance?

†For answer to this question, see answer to question No. 229.

(*d*) What other running staff are given consolidated allowance like the T. T. Es.?

(*e*) Is it true that a Ticket Collector on Rs. 32 pay when he goes out of Headquarters for 8 hours get Re. 1 as T. A. whereas a T. T. E. of Rs. 95 gets annas ten for the same?

TICKET CHECKING STAFF ABOLISHED.

234. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state if it is a fact that the Super-checking staff kept under Accounts to keep a check over Operating T. T. Es. has been abolished on and from 1st December, 1931? If so, why?

(*b*) Is it a fact that during 1927-28 about four Inspectors of Accounts, by checking 6 per cent. trains only, which were worked by Crews, detected about 4,800 irregularities and recovered about 18,200 rupees?

Sir Alan Parsons: (*a*) The reply to the first part of the question is in the affirmative. The reasons for the abolition of these posts which were sanctioned as an experimental measure are that such a super check did not exist on the other railways and at a time of financial stringency it was not considered desirable to embark on experiments involving additional expenditure.

(*b*) The information is not available.

APPEALS OF TRAVELLING TICKET INSPECTORS.

†235. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state why the old Travelling Ticket Inspectors' appeals addressed to the Secretary, Railway Board, have been withheld by the East Indian Railway authorities?

(*b*) Is it a fact that first they appealed to the Chief Operating Superintendent, then to the Agent and getting no satisfaction they ultimately appealed to the Secretary, Railway Board, and each time the same reply was given to the appellants by the East Indian Railway authorities that their posts were abolished and they were offered the new posts on reduced pay as an alternative to discharge?

(*c*) Is it a fact that in reply they were told that they were offered the maximum pay of the post as under the rules no more can be given than the maximum pay?

(*d*) If reply to part (*c*) be in the affirmative, will Government please state why Mr. Ahsan, on the abolition of his substantive post, was utilised in the Crew system as Crew Inspector and given about Rs. 270 pay although the maximum pay of the post was Rs. 200 only?

(*e*) When the Crew system was abolished on the East Indian Railway, why those men who were brought on loan from other Departments were not reverted to their substantive posts, for instance Mr. C. N. Dunvell brought from Loco. Department now working as Senior Inspector and Mr. Asghar brought from the North Western Railway working as Assistant Head Ticket Collector?

†For answer to this question, *see* answer to question No. 229.

REDUCTIONS OF PAY AND ALLOWANCES OF TRAVELLING TICKET INSPECTORS.

†236. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state if it is a fact that about 104 old Travelling Ticket Inspectors sustained a yearly loss of about Rs. 1,24,770 from 1st June 1931?

(*b*) Is it a fact that from August 1931 the consolidated allowance of Rs. 20 and Rs. 15 per month given to the T. T. Es. has been reduced by 12½ per cent.?

(*c*) Is it a fact that from December 1931 their reduced pay has been further reduced by 10 per cent.?

(*d*) Why was the leave salary of the Travelling Ticket Inspectors reduced in June 1931, mileage allowance replaced by fixed monthly allowance of Rs. 20 which from August has further been reduced to Rs. 17/8 and the reduced pay subjected to a cut of 10 per cent.?

PAY OF TRAVELLING TICKET EXAMINERS.

†237. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government be pleased to state, if it is a fact that Messrs. Moody and Ward in para. 39 of their report said "a better policy in our opinion would be to decrease the numbers but improve the pay" and that they also said "the comparatively low pay of the Crewmen is probably the main cause of this tendency to slackness and corruption"?

(*b*) Is it a fact that after this wage cut from December 1931 the maximum pay of the T. T. Es. has been reduced as under:

Grade I reduced Rs. 95/- maximum to Rs. 85/8,

Grade II reduced Rs. 64/- maximum to Rs. 57/10?

(*c*) Is it a fact that the maximum leave salary of the T. T. Is. used to be Rs. 350 and the same of the Crew incharge Rs. 90/ and the same of a T. T. E. now Rs. 85/8?

PAY AND MILEAGE ALLOWANCE OF TICKET EXAMINERS ON THE EAST INDIAN AND NORTH WESTERN RAILWAYS.

†238. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state if it is a fact that on the North Western Railway the designation of the Travelling Ticket Examiners was changed to Special Ticket Examiners from 1st June 1931, and as a result of this change their mileage, which was considered as pay, has been stopped but their pay has not been reduced?

(*b*) Will Government please state why on the East Indian Railway the pay of the T. T. Es. has been reduced in addition to their mileage having been stopped?

(*c*) Is it a fact that on the North Western Railway the rate allowance given to the S. T. Es. is much more than that of the T. T. Es. of the East Indian Railway?

†For answer to this question, *see* answer to question No. 229.

SYSTEM OF TICKET CHECKING ON THE EAST INDIAN RAILWAY.

239. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state if it is true that the East Indian Railway authorities are contemplating to abolish the T. T. E. system and to start the squad system like the one in force on the North Western Railway?

(*b*) Will Government please state if it is true that on the Oudh and Rohilkhand Railway such squads used to work under the Traffic Department but were abandoned and Travelling Ticket Examiners retained?

Sir Alan Parsons: (*a*) If the Honourable Member is referring to the system of checking tickets recommended in the Moody-Ward Committee's report, which was introduced only a few months ago under the sanction of the Railway Board, Government are not aware that the East Indian Railway have any proposal under consideration to discontinue this system.

(*b*) No records are traceable in the office of the Railway Board bearing on this point. I am unable, therefore, to give the information required by the Honourable Member.

Dr. Ziauddin Ahmad: The question here is about the squad system. I do not know what reply the Honourable Member gave to this point.

Sir Alan Parsons: I said that I was not aware that the East Indian Railway had any proposal to that effect.

Dr. Ziauddin Ahmad: Did not the Honourable Member say that he had no information whatsoever about the way in which this system is working on the East Indian Railway?

Sir Alan Parsons: The system is not working, as far as I am aware, on the East Indian Railway.

SUCCESS AND COST OF THE MOODY-WARD SYSTEM OF TICKET CHECKING.

†240. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state if the Moody-Ward system which has now worked for six months, has achieved the desired success?

(*b*) How much has been the actual expenditure on the Moody-Ward system for six months from 1st June 1931 to 31st December 1931 in respect of:

(i) pay, allowance, uniforms, stationery, etc., of the entire establishment comprising office staff, Inspectors, T. T. E. and Ticket Collectors;

(ii) the number of each of the above staff employed;

(iii) the total amount recovered by T. T. Es. from passengers during the said period;

(iv) the amount of penalty recovered in respect of the said amount;

(v) the average earning per head; and

(vi) the number of cases prosecuted by them during the period under Sections 112, 113, 114, Railway Act and 419, 420 I. P. C. separately under each section?

†For answer to this question, *see* answer to question No. 229.

(*c*) Will Government please state the above facts item by item as mentioned in part (*b*) above in respect of the Travelling Ticket Inspectors and Ticket Collectors for the period of six months 1st January, 1926 to 30th June, 1926?

PRESSURE ON TICKET EXAMINERS TO INCREASE THEIR EARNINGS.

241. ***Khan Bahadur Haji Wajihuddin:** Will Government please state if it is true that in some Divisions of the East Indian Railway the T. T. Es. are compelled to show high earnings and those whose earnings are low are threatened with severe punishment?

Sir Alan Parsons: I am asking the Agent, East Indian Railway, for the information required by the Honourable Member and will communicate with him on its receipt, also placing the information on the table of the House.

RECOVERY OF FARES FROM SADHUS AND FAKIRS TRAVELLING WITHOUT TICKETS.

242. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state if it is a fact that some of the Divisions have issued orders that *Sadhus* and *Fakirs* should not be made over at stations for the recovery of Railway dues when found travelling without tickets?

(*b*) Will Government please lay on the table a copy of such orders?

(*c*) Why have only a few Divisions issued such orders and others not?

(*d*) Why is there no uniformity of work on all the Divisions?

(*e*) How much was recovered from *Sadhus* and *Fakirs* by the Railway Magistrate, Allahabad, during 1928-29?

(*f*) Are Government aware that such orders give a chance to dishonest people to undertake free railway journeys posing as *Sadhus*?

Sir Alan Parsons: (*a*), (*b*), (*c*), (*d*), (*e*) and (*f*). I am making enquiries whether any such orders have been issued and will let the Honourable Member know the result and also place the information on the table of the House.

ACTION TAKEN AGAINST DEFAULTING TRAVELLERS.

243. ***Khan Bahadur Haji Wajihuddin:** Will Government please state:

(*a*) if it is a fact that some of the Divisions have issued orders that a passenger getting down with an irregularity at a station where there is no G. R. Police provided should not be made over there unless he gives an assurance that he would pay the amount there; otherwise he should be taken to a G. R. Police station;

(*b*) if they give assurance to the T. T. E. and are made over but subsequently can not afford to pay the dues, what action will be taken against them;

(*c*) what action is taken against such defaulters when caught at a small station independently by the Station Master;

(*d*) what the difference is between a passenger made over at a small station by a T. T. E. on the journey and the one detected there by the Station Master;

(*e*) if there is no difference why the restriction on T. T. Es.; and

(*f*) if all the Divisions have issued such circulars; if not, why not?

Sir Alan Parsons: I am asking the Agent, East Indian Railway, for the information required by the Honourable Member and will communicate with him on its receipt and also lay it on the table of the House in due course.

RECRUITMENT OF TRAVELLING TICKET EXAMINERS.

†244. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state why in some Divisions temporary recruits of the Crew now utilised as Ticket Collectors have been confirmed and in other Divisions they have not been confirmed?

(*b*) Is it a fact that on the introduction of the Moody-Ward system some of the Ticket Collectors were made T. T. Es. who were of a permanent cadre?

(*c*) If the reply to part (*a*) be in the affirmative, will Government please state if the Moody-Ward system has been confirmed?

DUTIES OF TRAVELLING TICKET EXAMINERS.

†245. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state if to utilise a Travelling Ticket Examiner as a Ticket Collector or a Ticket Collector as a Guard will be the legitimate duty of the staff concerned?

(*b*) Will Government please state why and how many Travelling Ticket Examiners were utilised as Ticket Collectors during the six months of the Moody-Ward system?

PAY OF HEAD TICKET COLLECTORS AT CERTAIN STATIONS.

†246. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state the maximum pay of a Head Ticket Collector at Howrah, Benares Cantt., Lucknow, Allahabad, Cawnpore, Moradabad, Bareilly, Lhaksar, Hardwar and Dehra Dun?

(*b*) What is the average inward traffic at Hardwar, Benares Cantonment, Bareilly and Moradabad per year?

DUTIES OF TRAVELLING TICKET EXAMINERS.

247. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state if it is true that as per Rule No. 5 (ii) on page 6 of the T. T. Es.' Pocket Guide, they are ordered by the Chief Operating Superintendent as under?

> "The principal duties of the Travelling Ticket Examiners will be to see that every passenger is in possession of a token showing his authority to travel .....".

(*b*) Will Government please state how this duty can be performed and how is it physically possible for one or two T. T. Es. to be responsible for every passenger in the train?

†For answer to this question, *see* answer to question No. 229.

Sir Alan Parsons: (*a*) Government have no information, but I am prepared to accept the Honourable Member's statement.

(*b*) If in any case it is physically impossible for a Travelling Ticket Examiner to do what the rules require of him, he will doubtless be given every opportunity to satisfy the supervising authorities on the point.

CHECKING OF TICKETS OF FEMALE TRAVELLERS.

248. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state why the Travelling Ticket Examiners are ordered by the Chief Operating Superintendent to check the female compartments from platform as per Rule No. 4 (*b*) on page 14 of the Pocket Guide?

(*b*) Are Government aware that this will be resented by those observing purdah? If so, do they propose to stop this practice?

Sir Alan Parsons: (*a*) In order to ensure that passengers are travelling with proper tickets.

(*b*) Government see no reason for interference in this matter.

HOUSE RENT AND MILEAGE ALLOWANCES OF TICKET CHECKING STAFF OF THE EAST INDIAN AND OUDH AND ROHILKHAND RAILWAYS.

†249. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state if the East Indian Railway and Oudh and Rohilkhand Railway ticket-checking staff are still governed by the rules of their respective railways before amalgamation of both the railways and on the basis of this the East Indian Railway, *i.e.*, Company-staff is allowed House-rent and the Oudh and Rohilkhand Railway, *i.e.*, State Railway staff are not?

(*b*) If the reply to part (*a*) be in the affirmative, will Government please state why the mileage allowance of the State railway employees has been withdrawn?

DISCHARGE OF TRAVELLING TICKET INSPECTORS AND TICKET COLLECTORS.

†250. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government be pleased to state how many Travelling Ticket Inspectors and Ticket Collectors of permanent cadre were discharged from service on the inauguration of the Moody-Ward system and how many of them were reinstated on the representation of their case?

(*b*) Will Government please state the reason for their discharge and the same for their subsequent re-instatement?

APPEALS BY TRAVELLING TICKET EXAMINERS OF THE NORTH WESTERN RAILWAY.

251. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state if the employees of the Railway have no right of appeal to the Railway Board in case they feel aggrieved?

(*b*) Will Government please state if the Travelling Ticket Examiners of the North Western Railway appealed against the abolition of their mileage allowance to the Railway Board and whether the same was forwarded or withheld by the North Western Railway authorities?

†For answer to this question, *see* answer to question No. 229.

Sir Alan Parsons: (*a*) A subordinate employed on a State-managed railway has a right of appeal to the Railway Board only if he is dismissed from the service with forfeiture of his Provident Fund bonus. Such employees, however, may submit a memorial to the Railway Board on matters affecting the conditions of service.

(*b*) The Railway Board received a representation in the matter and called upon the Agent, North Western Railway, for a report.

Dr. Ziauddin Ahmad: Have Agents got the right to withhold such appeals?

Sir Alan Parsons: They can withhold all appeals which are not covered by the rules relating to appeals.

CONSTITUTIONAL PROBLEMS OF BACKWARD TRACTS.

252. ***Mr. B. Das:** (*a*) With reference to the observations of the Governor-General in Council in their despatch on proposals for constitutional reforms regarding Backward Tracts (*vide* para. 52, page 48):

> "In Bihar and Orissa the problem is likely to be connected with the question of the formation of a separate province for the Oriyas, and should be considered by the committee charged with the investigation of that problem",

will Government be pleased to state if they have included the same in the terms of reference to the Orissa Boundary Committee?

(*b*) Will Government be pleased to state the special instructions they issued to the Orissa Boundary Committee in reference to the administrative problems of backward tracts likely to be included in the separate Orissa province?

(*c*) If no definite instructions have been issued to the Orissa Boundary Committee, will Government be pleased to state what machinery of enquiry they have in view to decide on the franchise and administrative issues of the backward tracts to be under the administration of a separate Orissa province?

The Honourable Sir George Rainy: With your permission, Sir, I shall reply to questions Nos. 252 to 257 together.

The general question of the areas, if any, to be treated as excluded from the operation of the reformed constitution and the administrative arrangements to be applied to such areas was not discussed at the Round Table Conference. But it is the intention of the Consultative Committee to examine it.

In their Reforms Despatch of the 20th September, 1930, the Government of India carried the examination of the question to a certain length, and indicated the need for further consideration. The fuller proposals of the Local Governments have since been received, and are being examined. The Government of India intend to frame detailed proposals for submission to the Secretary of State, and they trust to obtain the concurrence of the Consultative Committee to the necessary administrative provisions.

In these circumstances and at this stage I am not in a position to lay papers upon the table or to answer categorically questions of detail.

Mr. B. Das: With reference to the passage quoted here from the Government of India despatch that a certain portion of the investigation

would be referred to the Orissa Boundary Committee, do I understand that the Government of India have gone back on that opinion which they wrote in that despatch?

The Honourable Sir George Rainy: My impression is that it was not in the terms of reference to the Orissa Boundary Committee.

Mr. C. S. Ranga Iyer: Will the Government consider the advisability of incorporating these observations in the terms of reference to the Orissa Committee?

The Honourable Sir George Rainy: I think the decision in that matter was taken after full deliberation. I will consider the Honourable Member's suggestion, but I cannot give any undertaking.

CONSTITUTIONAL PROBLEMS OF BACKWARD TRACTS.

†253. ***Mr. B. Das:** (*a*) With reference to observations of the Government of India in their despatch on constitutional reforms regarding administrative problems of the Backward Tracts, will Government be pleased to state what action has so far been taken on the recommendations of the Simon Commission to declare any of the notified areas as advanced areas?

(*b*) What are these areas and what are the privileges conferred on these areas?

(*c*) Has any of these notified areas, now declared advanced, been allowed to exercise its newly acquired electoral rights to Legislative Councils and the Central Legislature since such declaration?

(*d*) If the reply to part (*c*) is in the negative, will Government be pleased to state if the inhabitants of these areas will be allowed to elect additional members to Legislative Councils and the Central Legislature prior to the new reforms?

CONSTITUTIONAL PROBLEMS OF BACKWARD TRACTS.

†254. ***Mr. B. Das:** (*a*) With reference to Backward Tracts in Bengal, will Government be pleased to communicate to the House the views of the Government of Bengal regarding the Darjeeling district?

(*b*) Have the Government of India come to any decision on that report of the Government of Bengal?

CONSTITUTIONAL PROBLEMS OF BACKWARD TRACTS.

†255. ***Mr. B. Das:** With reference to the following passage of the Government of India Despatch:

> "The Government of Bihar and Orissa state there are parts of Chota Nagpur, of the Santal Parganas and perhaps of the Sambalpur and Angul districts, which need not be retained in a special position",

will Government be pleased to state if they have issued any instructions to the Government of Bihar and Orissa to bring those tracts under normal administration?

†For answer to this question, *see* answer to question No. 252.

CONSTITUTIONAL PROBLEMS OF BACKWARD TRACTS.

†256. ***Mr. B. Das**: (*a*) With reference to the following observations of the Government of India regarding Backward Tracts in their Despatch on constitutional reforms (page 48):

> "Our present disposition, therefore, is to maintain the link between the provinces and the backward tracts without interposing central responsibility for their administration. It may be necessary to retain some areas under the sole administrative control of the Governor. In others where the jurisdiction of ministers and of the provincial legislature has already been admitted, the Governor may need no more than a general power to control the application of central and provincial enactments. The whole subject will, however, require further detailed consideration",

will Government be pleased to state if further action has been taken by the Central and Provincial Governments and the conclusions reached, if any?

(*b*) Has the Secretary of State for India been further addressed on the subject since the Despatch was written?

(*c*) Will Government be pleased to lay on the table all the correspondence with the Secretary of State and Provincial Governments on the future administration of backward tracts since the Despatch was written?

CONSTITUTIONAL PROBLEMS OF BACKWARD TRACTS.

†257. ***Mr. B. Das:** (*a*) Did the second Round Table Conference or any of its Sub-Committees go into the problems of the administration of backward tracts, and if so, what decisions were arrived at?

(*b*) Do Government propose to refer the entire question to the Orissa Boundary Committee or to some other committee?

(*c*) Will Government be pleased to state what ***modus operandi*** they are adopting to reach a final solution of the problems of the backward tracts?

CONSTITUTIONAL PROBLEMS OF BACKWARD TRACTS.

258. *Mr. B. Das: (*a*) With reference to the following observations of the Simon Commission in Vol. II, para. 132:

> " . . . . the outlay which is necessary for their administration and development ought to fall upon Central Funds in so far as they do not pay themselves",

will Government be pleased to state if the Government of India contribute any fund from the Central exchequer for the development and administration of backward tracts by the provinces at present?

(*b*) Have Government reached any decisions whether they will bear deficit on cost of administration and development of backward tracts after the new reforms as recommended by the Simon Commission?

(*c*) Did the Federal Structure Committee go into this aspect of the problem and what recommendations did they make on the point?

†For answer to this question, see answer to question No. 252.

(*d*) Do Government propose to refer the question of central responsibility for funds to the Federal Finance Committee?

The Honourable Sir George Schuster: (*a*) The Government of India make no contribution.

(*b*) No.

(*c*) The Honourable Member is referred to the Reports of the Federal Structure Sub-Committee.

(*d*) The Government of India have no power to settle what matters should be referred to the Federal Finance Committee, but I will see that the Chairman of that Committee receives a copy of the Honourable Member's question and of this reply.

COST OF INVESTIGATION TO REDUCE PERIODICAL RETURNS OF STATE-MANAGED RAILWAYS.

259. *Rai Bahadur Lala Brij Kishore: With reference to Government's reply to my question No. 153, dated the 2nd February, 1931, will Government be now pleased to state definitely:

(*a*) what expenditure was incurred by Government on two officers appointed to investigate the possibility of reducing the periodical returns prepared by State-managed railways;

(*b*) what was the exact amount of saving effected as a result of these officers' recommendations, and

(*c*) what posts on the superior cadre were brought under reduction as a result of these officers' recommendations?

Sir Alan Parsons: (*a*) Up to the end of the current financial year, the expenditure incurred on the officers appointed to investigate the possibility of reducing periodical returns, and other methods of securing economies, in the offices on the East Indian Railway will be approximately Rs. 1,68,000.

(*b*) The proposals accepted to date are calculated to give a saving amounting to over Rs. 5 lakhs per annum.

(*c*) I am obtaining the information and will lay it on the table of the House in due course.

RACIAL CONSIDERATIONS IN THE RETRENCHMENT OF POSTS.

260. *Rai Bahadur Lala Brij Kishore: With reference to the Government's reply to my question No. 153, dated the 2nd February, 1931, part (*c*) "Information as to what communities held these particular posts (*i.e.*, those retrenched) has not been called for as proposals for the abolition of particular posts are made without any reference to the community to which the holder belongs", will Government be pleased to call for the necessary information with a view to see how the retrenchment proposals are affecting the interests of members of various communities in the services? Are Government aware that it is alleged that officers in making their recommendations were guided by racial consideration?

Sir Alan Parsons: Government regret that they cannot undertake to call for the information, and are not aware of the allegation mentioned by the Honourable Member; if made, it is quite unfounded.

EXPENDITURE ON THE WATCH AND WARD DEPARTMENT ON RAILWAYS.

261. ***Rai Bahadur Lala Brij Kishore:** (*a*) With reference to Government's reply to my question No. 212, dated the 23rd February, 1931, will Government be pleased to state:

(i) what economies have been effected on the expenditure of the Watch and Ward Department on Railways;

(ii) whether Government propose to incur an expenditure of Rs. 45,12,000 a year without first ascertaining as to what losses are actually being prevented both to the public and Railways as a result of the maintenance of this department; and

(iii) whether they are aware that it is a widespread belief that the Ellis patent lock is responsible for prevention of thefts on the Railways to a very great extent?

(*b*) Have Government considered the advisability of ascertaining whether a reduction in the personnel of Watch and Ward Department is not possible as a result of the adoption of the Ellis patent lock?

Sir Alan Parsons: (*a*) (*i*). The expenditure on Watch and Ward is expected to be Rs. 2,67,000 less than in 1930-31.

(*ii*) As I explained in reply to the Honourable Member's question No. 212 on the 23rd February, 1931, it is not possible to ascertain what extra losses would be incurred or what extra claims for compensation might have to be paid if a Watch and Ward Department was not maintained.

(*iii*) Government are not aware that the belief is widespread.

(*b*) Reduction in expenditure on Watch and Ward receives and will continue to receive close attention in all its aspects.

EXPENDITURE ON THE OFFICE OF THE RAILWAY CONFERENCE ASSOCIATION.

262. ***Rai Bahadur Lala Brij Kishore:** With reference to Government's reply to my question No. 848, dated the 22nd September, 1931, will Government be pleased to state:

(*a*) what the annual expenditure on the office of the General Secretary, Railway Conference Association, was;

(*b*) what percentage of this expenditure is incurred on the superior revenue establishment; and

(*c*) whether they have considered the question of entrusting the work of the Central Publicity Office to the Conference Association?

Sir Alan Parsons: (*a*) The expenditure of the office of the General Secretary, Indian Railway Conference Association, in 1930-31 was Rs. 1,51,390.

(*b*) About 40 per cent. was on gazetted staff per annum.

(*c*) Yes, but such an arrangement would not be satisfactory.

REDUCTION IN COST OF OFFICERS ON SPECIAL DUTY WITH THE RAILWAY BOARD.

263. ***Rai Bahadur Lala Brij Kishore:** With reference to Government's reply to my question No. 213, dated the 23rd February, 1931, will Government be pleased to state whether any reduction on the expenditure incurred on the sixteen officers on special duty with the Railway Board has since been made? If so, how much?

Sir Alan Parsons: The expenditure for officers on special duty with the Railway Board was Rs. 1,85,270 in 1929-30 and is estimated at Rs. 71,000 for 1932-33.

COST OF DIVISIONAL ORGANISATION ON INDIAN RAILWAYS.

264. ***Rai Bahadur Lala Brij Kishore:** With reference to Government's reply to my question No. 563, dated the 18th February, 1931, will Government be pleased to state:

(*a*) what the total amount of expenditure on the Divisional organisation of the Indian railway system is;

(*b*) what increase it shows on the old district control system;

(*c*) whether it is a fact that the question of adopting the Divisional system was considered on the Eastern Bengal and Bombay, Baroda and Central India Railways, and rejected due to its excessive cost; and

(*d*) what the respective lengths of the divisions on each of the following railways and cost per mileage are:

(i) North Western Railway, (ii) East Indian Railway, (iii) Great Indian Peninsula Railway?

Sir Alan Parsons: (*a*) and (*b*). I am afraid it is not possible to give more definite information than is obtainable in the memorandum by Major Wagstaff which was sent to the Honourable Member in response to the identical question put by him on the 18th February, 1931.

(*c*) The question of adopting the Divisional system on the Eastern Bengal Railway was considered in 1929, but it was decided to drop the matter for the present, chiefly because the Railway Board were not satisfied that the Eastern Bengal Railway, unlike the East Indian, North Western and Great Indian Peninsula Railways, had so increased in size that efficient centralised control was now difficult. The Railway Board were also partly influenced in coming to their decision to postpone the question of introducing the system by the fact that they were unable to find the amount which would be needed for capital expenditure estimated at about 13 lakhs. I am not aware of any proposals having come before the Railway Board for the introduction of the Divisional system on the Bombay, Baroda and Central India Railway.

(*d*) I am ascertaining from the railways mentioned what is the route mileage of each of their divisions and will lay the information on the table of the House in due course. It is not possible to procure figures of the cost of the system per mile.

Dr. Ziauddin Ahmad: Do the Government admit this fact that the divisional organization is more expensive than the old district organization?

Sir Alan Parsons: No. Sir.

Dr. Ziauddin Ahmad: Government is not prepared to admit that the divisional organization is more expensive than the old district organization?

Sir Alan Parsons: No.

Dr. Ziauddin Ahmad: Is it less expensive?

Sir Alan Parsons: I am afraid I cannot give a categorical answer.

Dr. Ziauddin Ahmad: Is it, I ask again, less expensive?

Sir Alan Parsons: I consider myself that the divisional system on the railways on which it has been introduced is less expensive than the old system would be if it had been re-introduced.

TRAIN EXAMINERS AT JUNCTION STATIONS.

265. ***Rai Bahadur Lala Brij Kishore:** With reference to Government's reply to my question No. 849, dated the 22nd September, 1931, will Government be pleased to state why the system of having neutral train examiners is not being extended to other interchange junctions?

Sir Alan Parsons: The appointment of neutral train examiners who are additional to the train examiners belonging to the respective Railway Administrations can only be justified at large junctions.

ALLEGED RACIAL DISCRIMINATION IN APPOINTMENTS OF SENIOR SUBORDINATES ON THE RAILWAYS.

266. ***Rai Bahadur Lala Brij Kishore:** (*a*) Will Government be pleased to state whether racial discrimination still exists in the matter of appointments to senior subordinates' posts in the various Departments of the Railways?

(*b*) How many posts carrying a salary of over (i) Rs. 250, (ii) Rs. 350 are held by the Indian staff (excluding Anglo-Indian) on the transportation side of the East Indian Railway such as Station Master, Yard Master, Carriage Inspector, Running Shed Foreman, Senior Guards on Rs. 210 per mensem?

(*c*) What is responsible for such a dearth of Indian staff on the posts? Is it due to the inability of Indian staff to fill these posts? If the answer be in the affirmative, what special steps do Government propose to take to remedy matters?

(*d*) Do Government propose to draw the attention of the Agent, East Indian Railway, to this and instruct him to provide special facilities to Indian staff in the matter of these appointments?

Sir Alan Parsons: (*a*) The answer is in the negative.

(*b*) The available information is given in the East Indian Railway classified list of subordinate staff, a copy of which is in the Library.

(*c*) and (*d*). Posts of upper subordinates on railways are filled with due regard to merit and seniority, and an increasing number of such posts is being filled by the promotion of Indians. Further recruitment in England for State-managed Railways is confined to certain specialist posts such as Jig and Tool Draftsmen, Signal Inspectors, etc., and then only when it is known either after inviting applications in India or from past experience that a suitable candidate in India cannot be found. The East Indian Railway provides adequate opportunities to the Indian staff to qualify for promotion.

CONSTRUCTION OF WAITING ROOMS AT STATIONS ON THE BUKHTIARPORE-BIHAR LIGHT RAILWAY.

267. ***Mr. Badri Lal Rastogi:** With reference to my starred question No. 168, asked on the 2nd February, 1931, will Government be pleased to state what steps have been taken so far by the Railway Administration, regarding the construction of the waiting rooms at some of the important stations of the Bukhtiarpore-Bihar Light Railway?

Sir Alan Parsons: I am enquiring from the Agent, and will lay the result of the inquiry on the table of the House in due course.

INCONVENIENT TIMINGS OF TRAINS AT BUKHTIARPORE JUNCTION STATION.

268. ***Mr. Badri Lal Rastogi:** (*a*) With reference to my starred question No. 1155 (*c*) put on the 27th March, 1931, will Government please state as to what happened to the suggestion communicated to the Agent of the East Indian Railway and to the Managing Agents of the Bukhtiarpore-Bihar Light Railway regarding the arrival of the 16 Down Express train at Bukhtiarpore Junction an hour earlier or departure of the 5 Up Mixed Daily of the Bukhtiarpore-Bihar Light Railway from Bukhtiarpore Junction an hour later?

(*b*) Are Government aware that several representations regarding the departure of the 5 (now 7) Up Mixed Daily from Bukhtiarpore Junction an hour later have been made to the Manager of the Bukhtiarpore-Bihar Light Railway at Arrah?

(*c*) Are Government aware that passengers getting down at Bukhtiarpore Junction from 71 Up Express and 16 Down Express are being put to considerable inconvenience by their not being able to catch the Bukhtiarpore-Bihar Light Railway train that leaves Bukhtiarpore Junction an hour or half an hour before?

(*d*) Do Government propose to remove this long felt grievance of the public by asking the Railway authorities of the Bukhtiarpore-Bihar Light Railway to get the departure of the train fixed at an hour later than at present?

Sir Alan Parsons: (*a*), (*b*), and (*c*). Government have no information.

(*d*) It is not possible for Government to take any part in the arrangement of time tables. I am, however, bringing the Honourable Member's question to the notice of the Managing Agents of the Bukhtiarpore-Bihar Light Railway.

REPORTS OF RETRENCHMENT COMMITTEES AND THE PLACES VISITED BY THEM.

269. *Mr. Badri Lal Rastogi: (a) Will Government kindly state the places visited by the different Sub-Committees of the Retrenchment Committee?

(b) Will Government kindly state when or by what time the reports of these Sub-Committees are likely to be completed?

(c) Will Government kindly give the names of the different members of the Retrenchment Sub-Committees along with the amount of Travelling and Halting Allowance drawn by each member?

(d) Is there any time-limit for these various sub-committees to finish their reports?

The Honourable Sir George Schuster: (a) and (c). A statement is laid on the table.

(b) The reports of the Public Works, Accounts and Audit Sub-Committee and of the Railways Sub-Committee have been completed. It is expected that final reports from the General Purposes, Stores, Stationery and Printing, and Army Sub-Committees will be submitted by about the end of this month. In the case of the Posts and Telegraphs Sub-Committee, the time of re-assembling for further enquiry and of the submission of the final report has not yet been settled.

(d) No.

Statement showing the expenditure of the Retrenchment Sub-Committees up to the 31st January, 1932, and the places visited by them.

Name.	Amounts drawn.	
	Travelling allowance.	Halting allowance.
	Rs. A. P.	Rs.
Stores, Printing and Stationery Sub-Committee.		
The Hon'ble Mr. G. A. Natesan	873 9 0	760
Mr. S. C. Lyttelton	371 1 0	580
Mr. B. Das, M.L.A.	117 10 0	120
Mr. A. H. Ghaznavi, M.L.A.	9 0 0	340
Mr. Jagan Nath Aggarwal, M.L.A.	382 12 0	220
Places visited—Calcutta, Simla, Delhi, Aligarh and Bombay.		
General Purposes Sub-Committee.		
Sir Abdur Rahim, K.C.S.I., KT., M.L.A.	171 15 0	2,660
The Hon'ble Lala Ram Saran Das, C.I.E.	625 9 0	960
Mr. Rangaswamy Ayangar	547 0 0	200

Name.	Amounts drawn.	
	Travelling allowance.	Halting allowance.
	Rs. A. P.	Rs.
General Purposes Sub-Committee—contd.		
Mr. S. C. Mitra, M.L.A.	1,533 2 0	1,740
Mian Mohammad Shah Nawaz, M.L.A.	190 9 0	100
Mr. K. C. Roy, C.I.E., M.L.A.	..	740
Diwan Bahadur Harbilas Sarda, M.L.A.	504 6 0	1,600
Mr. Ramsay Scott, M.L.A.	461 6 0	1,900
Khan Bahadur H. M. Walayatullah, I.S.O., M.L.A.	1,272 0 0	1,060
Places visited —Simla and Delhi.		
Army Sub-Committee.		
Diwan Bahadur T. Rangachariar, C.I.E., M.L.A.	648 13 0	1,480
Maulvi Sir Muhammad Yakub	835 2 0	1,560
The Hon'ble Major Nawab Sir Mohammad Akbar Khan, C.I.E,	883 2 0	1,210
The Hon'ble Sirdar Bahadur Shivdev Singh Uberoi	906 5 0	1,400
Diwan Bahadur A. Ramaswami Mudaliar	1,019 7 0	780
Mr. E. C. Benthall, C.B.	573 0 0	660
Mr. F. C. Bovenschen, C.B.	960 3 0	1,755
Places visited.—Simla, Calcutta, Ishapore, Cossipore, Cawnpore, Shahjahanpur, Dagshai, Kasauli, Bombay, Poona, Lahore and Rawalpindi.		
Railway Sub-Committee.		
Mr. R. K. Shanmukham Chetty, M.L.A.	478 8 0	220
The Hon'ble Khan Bahadur Hafiz Mohammad Halim	172 2 0	80
Dr. Zia-ud-Din Ahmad, C.I.E., M.L.A.	372 4 0	140
Mr. N. R. Sarkar	379 2 0	720
Mr. E. F. Sykes, M.L.A.	360 12 0	280
Mr. Balaram Aiyar	925 12 0	740
Places visited.—Calcutta and Simla.		

Name.	Amounts drawn.	
	Travelling allowance.	Halting allowance.
	Rs. A. P.	Rs.
Posts and Telegraphs Sub-Committee.		
The Hon'ble Mr. B. K. Basu	372 11 0	240
Mr. Amar Nath Dutt, M.L.A.	396 6 0	660
Mr. Muhammad Yamin Khan, C.I.E., M.L.A.	293 3 0	600
Mr. F. C. Annesley	751 14 0	720
Mr. N. V. Raghavan	1,144 4 0	1,120
Places visited.—Bombay and Simla.		
Public Works, Accounts and Audit Sub-Committee.		
Mr. K. C. Neogy, M.L.A.	339 14 0	540
The Hon'ble Mr. Hussain Imam	480 8 0	600
Mr. G. Morgan, C.I.E., M.L.A.	339 14 0	540
Diwan Bahadur R. N. Arogiaswamy Mudaliar	694 12 0	540
Rai Bahadur Bishan Swarup	550 6 0	540
Places visited.—Calcutta and Simla.		

MUSSALMAN INCOME-TAX OFFICERS AND CLERKS IN THE INCOME-TAX DEPARTMENT.

270. ***Shaikh Fazal Haq Piracha:** What is the total number of Income-tax officers, Income-tax Inspectors and clerks in the Income-tax Department in the Punjab and how many of them are Mussalmans?

The Honourable Sir George Schuster: A statement is laid on the table.

Statement showing the number of Muslims in the Income-tax Department, Punjab.

—	Sanctioned strength.	No. of Muslims (permanent appointments).
Income-tax Officers	30	6
Inspector-Accountants	34	11
Clerks including Head Clerks and Head Assistants	161	48
	225	65

APPOINTMENT OF MUSSALMANS TO THE INCOME-TAX DEPARTMENT.

271. ***Shaikh Fazal Haq Piracha:** (*a*) Is it a fact that since the passing of the last Finance Bill, the assessment work of the Income-tax Department has considerably increased and, owing to that, new appointments in the Department had to be made?

(*b*) In making these appointments did Government keep in view the paucity of the Muslims in the Department, and have they issued instructions to the appointing authorities to give more posts to the Muslims as compared with other communities?

(*c*) How many new postings of Income-tax Officers, Income-tax Inspectors and office clerks were made in the Income-tax Department in the Punjab, in the current and the last year and how many of them were Mussalmans?

The Honourable Sir George Schuster: (*a*) Yes.

(*b*) No special instructions have been issued, but there are standing instructions in regard to the avoidance, as far as possible, of a disproportionate preponderance of any community in Government service.

(*c*) The information is being obtained and will be communicated to the Honourable Member in due course.

APPOINTMENT OF MUSSALMANS TO THE INCOME-TAX DEPARTMENT.

272. ***Shaikh Fazal Haq Piracha:** (*a*) Do Government contemplate making more appointments of Income-tax Officers, Income-tax Inspectors and clerks in the year 1932, in the Income-tax Department in the Punjab? If so, how many?

(*b*) In case any more appointments are to be made, do Government propose to issue instructions to appoint more Muhammadans to make up their deficiency in the Department?

The Honourable Sir George Schuster: (*a*) The extra staff was sanctioned some weeks ago and has already been recruited.

(*b*) The standing instructions in regard to the representation of minority communities were fully observed in recruiting it.

ANGLO-INDIAN WOMEN RETAINED IN OFFICIATING VACANCIES IN THE MADRAS GENERAL POST OFFICE.

273. ***Kumar Gupteshwar Prasad Singh:** Will Government be pleased to state:

(i) if it is a fact that the Postmaster General, Madras, issued orders to all Superintendents of Post Offices including the Presidency Postmaster, Madras, to throw out all officiating incumbents and replace them immediately by qualified permanent men in the lower division of the clerical cadre;

(ii) if any exceptions were made in the Madras General Post Office to this order in respect of a number of Anglo-Indian women candidates; if so why;

(iii) the qualifications of these women candidates;

(iv) the total number of qualified candidates in the waiting list of the Madras General Post Office, and for how long they have been on the list and why these candidates were not given the chances;

(v) how many of those in the waiting list were superseded by the women candidates referred to above and why; and

(vi) if it is a fact that many of the candidates on the waiting lists are relatives of postal employees?

Mr. T. Ryan: Government have no information but enquiry is being made.

NON-GRANT OF PENSIONS TO CERTAIN DISABLED SEPOYS.

274. ***Mr. Bhuput Sing** (on behalf of Sardar Sant Singh): (*a*) Is it a fact that Medical Boards held on Indian ranks, have in many cases, certified disabilities contracted on active service overseas, during the Great War, as not attributable to field service? Is it a fact that a large number of disabled sepoys have consequently been refused pensionary grants? Is it not a fact that these decisions of Medical Boards have been in contravention of their terms of enrolment, according to paragraph 1053 of Army Regulations (India), Volume I (1915 edition)?

(*b*) Will Government kindly state the number of Indian ranks, who have been thus refused pensionary grants?

(*c*) Is it a fact that the Medical Boards, instead of presuming such disabilities to be attributable to field service, have been demanding strict proofs, in respect of the attributability of disabilities to military service, and in the absence of such proofs, presumptions have been made invariably against such attributability?

(*d*) Are the Medical Boards guided by any definite rules framed by Government to decide this question of attributability of deaths and disabilities to service? If so, will Government kindly place a copy of these rules on the table?

(*e*) Is it a fact that one and the same disease caused on active service, has been held as attributable to service by one Medical Board, while not so attributable by another board?

(*f*) Is it a fact that general debility, deafness, and trachoma, though contracted on active service, have, in majority of cases, been held as attributable to old age? At what period of life does old age commence according to medical boards?

Mr. G. M. Young: (*a*), (*b*), (*c*) and (*e*). Government are not aware of any such cases.

(*d*) The definition of the term "attributable to military service" is contained in paragraph 414 of the Regulations for the Medical Services of the Army in India, a copy of which is in the Library.

(*f*) Government are not aware of any such cases. The period varies according to the individual.

MEDICAL BOARD PROCEEDINGS REFUSED TO INDIAN RANKS.

275. ***Mr. Bhuput Sing** (on behalf of Sardar Sant Singh): (*a*) Is it a fact that copies of Medical Boards proceedings, held on Indian ranks, have been refused to the individuals concerned?

(*b*) Is it not a fact that these proceedings deal with grounds for sanction or rejection of a grant of a disability pension? What are the grounds on which such refusals are based?

Mr. G. M. Young: (*a*) and (*b*). Yes, Sir. The proceedings of all Medical Boards are strictly confidential.

PNEUMONIA CAUSED BY MILITARY SERVICE.

276. ***Mr. Bhuput Sing** (on behalf of Sardar Sant Singh): (*a*) Is it a fact that pneumonia has, in the case of Indian ranks, been held as not attributable to military service?

(*b*) What was the number of deaths from pneumonia during the Great War?

(*c*) What percentage thereof has been admitted to the roll of family pensions?

(*d*) What was the number of such deaths during the Waziristan operations, 1918 to 1924, and what percentage thereof has been brought to pension establishment?

(*e*) What is the corresponding number of British ranks, who died of pneumonia during the aforesaid field operations, and what is the percentage admitted to pensions?

Mr. G. M. Young: (*a*) Generally speaking the answer is in the affirmative.

(*b*) to (*e*). Government regret that the information is not obtainable.

APPEAL AGAINST DECISIONS OF MEDICAL BOARDS.

277. ***Mr. Bhuput Sing** (on behalf of Sardar Sant Singh): (*a*) Is it a fact that there is no appeal against the decisions of a Medical Board?

(*b*) If so, what method do Government adopt to rectify arithmetical mistakes committed by these Boards? Are they looked into by the Medical Directorate?

(*c*) What remedies are provided for redressing the grievances when there is a miscarriage of justice, and deviation from recognized rules and principles?

Mr. G. M. Young: (*a*) and (*b*). No, Sir; appeals are entertained and a fresh Medical Board may be ordered by the military authorities.

(*c*) The aggrieved person has the right under the regulations to make representations through the proper channel.

APPEALS IN RESPECT OF PENSIONARY GRANTS.

278. ***Mr. Bhuput Sing** (on behalf of Sardar Sant Singh): (*a*) Is it a fact that appeals against the decisions of Officers Commanding, in respect of pensionary grants, are not entertained by the Army Headquarters?

(*b*) What is the total number of appeals returned by the Army Headquarters since the termination of the Great War?

(*c*) What is the number of appeals that were refused to be forwarded to higher authorities by officers commanding?

Mr. G. M. Young: (*a*) No, Sir.

(*b*) and (*c*). The information asked for does not exist.

PERSONAL ALLOWANCE REFUSED TO SUBEDAR-MAJORS.

279. ***Mr. Bhuput Sing** (on behalf of Sardar Sant Singh): (*a*) Will Government be pleased to place on the table the total number of Subedar-Majors sent on pension since the outbreak of the Great War till 1930, and the percentage thereof that were not granted the personal allowance of Rs. 50 per mensem?

(*b*) Is it a fact that Subedar-Majors were refused this allowance simply because Government did not happen to notify the rank in the *Gazette of India*?

(*c*) How many Subedar-Majors were disallowed this concession for political and religious activities?

Mr. G. M. Young: (*a*) and (*c*). The information asked for is not available, and could not be obtained except by a prohibitive expenditure of time and labour.

(*b*) No, Sir. Promotions in rank of military officers are always notified in the *Gazette of India*.

PENSIONS GRANTED TO RANKS RE-ENGAGED FOR THE GREAT WAR.

280. ***Mr. Bhuput Sing** (on behalf of Sardar Sant Singh): (*a*) Is it a fact that a large number of people with pre-war service to their credit were re-engaged during the Great War with promises of award of all concessions that were admissible to the continually-serving personnel on the strength, and were granted mustering-out-pensions by their Officers Commanding and paid six months' pension in advance, but that, subsequently, the award was rejected on the ground that their re-engagement happened to be made after the 13th May, 1916?

(*b*) What is the significance of this date in relation to the admissibility of a pensionary award?

(*c*) What was the total number of such re-enrolments during the Great War?

Mr. G. M. Young: (*a*) and (*b*). From the 13th May, 1916, enlistments or re-enlistments were made for the period of the war only, and personnel who enlisted or re-enlisted after that date were not eligible for mustering-out concessions.

(*c*) The information asked for does not exist.

PENSIONS ADMISSIBLE TO WIDOWS AND MOTHERS OF DECEASED RANKS.

281. ***Mr. Bhuput Sing** (on behalf of Sardar Sant Singh): (*a*) Is it a fact that in the Army Regulations (India), Volume I, which remained in force till 1st April, 1923, family pensions were admissible for life to widows and mothers of deceased ranks?

(*b*) Is this principle applied to all deaths, which occurred on the field up to the termination of the Great War?

(*c*) If not, what is the number to which this principle was not applied, and why?

Mr. G. M. Young: (*a*), (*b*) and (*c*). The family pensions admissible to widows and mothers were granted for life in cases where the casualties occurred before the 6th August, 1918. In subsequent cases such pensions were granted up to the date of re-marriage.

MILITARY PENSIONS FORFEITED FOR PARTICIPATION IN POLITICAL ACTIVITIES.

282. ***Mr. Bhuput Sing** (on behalf of Sardar Sant Singh): Will Government be pleased to place on the table a statement showing the total number of military pensions, forfeited to Government due to the sympathies with, and participation in (i) the non-co-operation movement (ii) the Nabha movement, (iii) the Gurudwara Bill activities, and (iv) the civil disobedience movement? Also the total number of forfeitures of military pensions, on account of imprisonment for crimes other than political crimes?

Mr. G. M. Young: I regret that the information is not available, and could only be compiled, if at all, by the recruitment of special staff for the purpose.

INDIAN RANKS DISMISSED.

283. ***Mr. Bhuput Sing** (on behalf of Sardar Sant Singh): (*a*) Will Government be pleased to place on the table a statement showing the number of dismissals effected during 1914—1924 amongst Indian ranks, wherein the personnel had earned the right to pension and release from military service, but were not so released and pensioned in the interests of the State till their dismissal?

(*b*) Amongst such dismissals, how many are Indian officers? What is the number of such dismissals wherein the dismissal was recommended by the officers commanding, but not accepted by the Army Headquarters?

(*c*) Under what authority was their release from military service deferred, and under what authority was the earned pension, which they would have enjoyed, but for such prolongation, forfeited?

Mr. G. M. Young: (*a*), (*b*) and (*c*). Government have not the information required by the Honourable Member, and regret that it would be impossible to obtain it.

DECISIONS OF COURTS MARTIAL REFUSED TO INDIAN RANKS.

284. ***Mr. Bhuput Sing** (on behalf of Sardar Sant Singh): Is it a fact that copies of the decisions of Courts Martial have been refused to the concerned Indian ranks? Is there no appeal against such orders? Is there no revision even?

Mr. G. M. Young: Under Rule 133 of the Indian Army Act Rules, a person tried by court-martial is entitled on demand to obtain a copy of the proceedings on payment. I am not aware of any instance in which the provisions of this rule have been contravened.

FEMALE MILITARY PENSIONERS.

285. ***Mr. Bhuput Sing** (on behalf of Sardar Sant Singh): (*a*) Will Government be pleased to place on the table a statement showing the total number of such female military pensioners brought on pension roll during the period 1914 to 1924 (*i.e.*, during the Great War and Waziristan operations) on account of the death of Indian ranks, as have had their pensions forfeited owing to re-marriage?

(*b*) Is such a forfeiture extended to British females as well? Is there any condition on which such forfeitures are restored? If so, what? Does it apply to the British and Indian ranks equally?

Mr. G. M. Young: (*a*) I regret that the information is not obtainable.

(*b*) The answer to the first part is in the affirmative. Such forfeitures are not restored except to the widows of warrant officers, class I, who remarry and again become widows. There are no Class I warrant officers among Indians.

FAMILY PENSIONS REFUSED FOR SYCES KILLED ON MILITARY SERVICE.

286. ***Sardar Sant Singh:** (*a*) Is it a fact that families of syces of Indian Cavalry and Artillery, when killed on field service, are not considered admissible for family pensions?

(*b*) Are the syces informed of the fact at the time of enrolment or while proceeding on to field service?

(*c*) What is the authority for such non-grants?

(*d*) Will Government kindly place a copy of such rules on the table?

(*e*) What other military formations are not admissible to family pensions?

(*f*) What was the total strength of such personnels during the Great War and Waziristan operations and the number of deaths amongst them?

Mr. G. M. Young: (*a*) No, Sir, pensions are admissible.

(*b*), (*c*), (*d*) and (*f*). Do not arise.

(*e*) There is no class of military personnel in respect of whom family pension is not admissible under existing rules. The widows of certain non-combatant personnel such as Labour Corps and Porters Corps in the war were eligible for gratuity only.

FAMILY PENSIONS OF NON-COMBATANTS.

287. ***Sardar Sant Singh:** (*a*) Is it a fact that the pre-war rate of family pensions for non-combatants such as sweepers, bhisties, pakhalies, shoesmiths, etc., was increased after the Great War, while no increase was effected in the family pensions of personnels of the Mule Corps, Hospital Corps, and Army Bearer Corps? Are they still getting the old rate?

(*b*) If not, what increase, and from what date, has been allowed to these people?

(*c*) Was this increase allowed as a result of high prices consequent upon the Great War, or as a reward for the participation therein?

Mr. G. M. Young: (*a*) No, Sir. All the personnel referred to are getting the increased rates of pension.

(*b*) A statement is laid on the table.

(*c*) The scales of family pensions of these classes were raised so as to bring them more or less into line with those of other classes.

	Date of increase.	Amount of increase.
Mule Corps	1st April, 1925	Rs. 3 a month.
Indian Hospital Corps	1st October, 1924 and 1st April, 1926.	Rs. 3 a month.
Army Bearer Corps	1st October, 1924.	Rs. 3 a month.

TEMPORARY INCREMENT IN PRE-WAR MILITARY PENSIONS.

288. ***Sardar Sant Singh:** (*a*) Is it a fact that temporary increment in the pre-war military pensions has been allowed by Government since 1st November, 1921?

(*b*) Was not this increment availed of by the heirs of the deceased awarded family pensions, which were suffered to remain on the pre-war rates?

(*c*) Was it not admissible to such heirs?

Mr. G. M. Young: (*a*) If the Honourable Member refers to service pensions, the answer is in the affirmative.

(*b*) and (*c*). The rates of family pensions granted before the war have not been raised.

TIME-LIMIT ALLOWED FOR PENSION CLAIMS.

289. ***Sardar Sant Singh:** (*a*) Will Government be pleased to state as to whether under usages as well as under Regulations for the Army-in-India the responsibility for investigating family and disability pension claims rests with Government?

(*b*) What is the time limit allowed to applicants to lodge their pensionary claims?

(*c*) Is there still a good number of such claims pending?

(*d*) Does this time limit equally apply to pre-war Indian officers re-employed during the Great War?

(*e*) Were promises made to the re-employed officers that they would be entitled to all such concessions as would be granted to other Officers of continuous service?

C

Mr. G. M. Young: (*a*) The answer is in the affirmative as regards claims arising in connexion with the disability or death of serving soldiers.

(*b*) Claims to pensions in respect of disabilities sustained during the Great War and the Waziristan operations of 1919-24 are time-barred under Army Instruction (India) No. A.-16 of 1927. Other claims to disability pensions are admitted by the pension sanctioning authority with full arrears if received within three years from the date of the casualty, or later if the explanation for the delay is satisfactory. Where the authority is not satisfied with the explanation, the claim is examined by the Government of India, who deal with each case on its merits and allow such arrears as they think fit. There is no time bar to the submission of claims to family pensions, but there are limits to the amount of arrears that may be granted.

(*c*) No.

(*d*) Yes.

(*e*) Yes, as far as disability and family pensions are concerned, re-employed personnel are treated in the same way as those who served continuously.

ARREARS OF FAMILY AND DISABILITY PENSIONS.

290. ***Sardar Sant Singh:** (*a*) Is it a fact that full arrears of family and disability pensions have not been allowed to the Indian ranks?

(*b*) Is it not in contravention of paragraph 84 of Financial Regulations for the Army-in-India, Part I?

(*c*) What is the authority for the disallowance? Will Government kindly place a copy of such authority on the table?

(*d*) Does such an authority apply to belated claims only or does it apply equally to all cases that were lodged in time, but remained unsettled for years?

Mr. G. M. Young: (*a*), (*b*), (*c*) and (*d*). The Honourable Member's attention is invited to paragraph 44, Financial Regulations for the Army-in-India, Part I, a copy of which is in the Library.

ARREARS OF FAMILY AND DISABILITY PENSIONS.

291. ***Sardar Sant Singh:** (*a*) Is it a fact that in Army Instructions (India) Nos. 238 of 1921, and 1056 of 1922, both of which are approved by the Right Honourable the Secretary of State for India, family pensions and disability pensions are admissible from 1st April, 1918, and 1st January, 1922, respectively, while Army Instruction (India) No. 87 of 1931 admits only 3 years' and in special cases 5 years' arrears of pension, preceding from the date of application?

(*b*) Is not this later Army Instruction, *i.e.*, 87 of 1931 approved by the Secretary of State?

(*c*) Under what authority the civil right once earned to draw family and disability pensions from the dates of casualty, or from the specific dates as notified in the aforesaid Army Instructions of 1921 and 1922 can be modified without the consent of the pensioners?

Mr. G. M. Young: (*a*) The facts are as stated by the Honourable Member, but the rule regarding admissibility of arrears applied equally to the two previous instructions. Army Instruction (India) No. 87 of 1931, merely delegated to the sanctioning authority power to deal with certain cases of belated claims formerly dealt with by the Government of India.

(*b*) No, Sir, it did not require the sanction of the Secretary of State.

(*c*) Claims made within time are in any case fully met. Paragraph 44 of the Financial Regulations, Part I, contains the rules for dealing with belated claims.

THE HIDE CESS ENQUIRY COMMITTEE'S REPORT.

292. ***Dr. Ziauddin Ahmad:** With regard to the Hides Cess Enquiry Committee Report and Mr. E. L. Price's Minute of Dissent thereon, will Government be pleased to state what commercial bodies, firms and individuals concerned have reported either direct to the Government of India or through Provincial Governments:

(*a*) in favour of the Report as modified by the Minute of Dissent;

(*b*) in favour of the main Report without the Minute of Dissent; and

(*c*) against the Report?

The Honourable Sir George Rainy: (*a*), (*b*) and (*c*). I would refer the Honourable Member to the reply which I gave to his unstarred question No. 126 on the 28th September, 1931. Government have not received since then any communication regarding this Committee's Report from commercial bodies, firms or individuals.

REVENUE DERIVED FROM HIDES AND SKINS EXPORT DUTIES.

293. ***Dr. Ziauddin Ahmad:** Will Government be pleased to state:

(*a*) the gross revenue derived from the Hides and Skins Export Duties year by year since they were imposed (i) in India and (ii) in Burma; and

(*b*) the approximate cost (per annum) of their collection (i) in India and (ii) in Burma?

The Honourable Sir George Schuster: (*a*) A statement giving the desired information is laid on the table.

(*b*) As separate establishments are not maintained, it is not possible to give the approximate cost, but the Honourable Member may take it that the cost is small, in the sense that only small economies would be possible if the duty were abolished.

Statement showing the revenue derived from export duty on hides and skins during the years 1919-20 to 1930-31, and nine months of 1931-32.

Years.	British India (excluding Burma).	Burma.
1919-20	90,24,551	1,67,479
1920-21	56,66,141	3,55,439
1921-22	50,00,457	1,41,401
1922-23	41,02,307	1,57,764
1923-24	24,50,132	82,978
1924-25	25,93,827	81,414
1925-26	30,48,741	1,25,392
1926-27	29,90,133	92,868
1927-28	35,95,688	1,37,639
1928-29	35,20,382	1,62,462
1929-30	34,42,986	1,06,378
1930-31	23,83,600	96,951
1931-32 (nine months)	Total revenue for the whole of India including Burma is Rs. 16,13,054. Separate figures are not available.	

MEDICAL CERTIFICATES OF AYURVEDIC PRACTITIONERS.

294. ***Mr. S. C. Sen** (on behalf of Pandit Satyendra Nath Sen): (*a*) Are Government aware that the *Ayurvedic* system of treatment has a hoary and brilliant past and that a large part of the Indian people have recourse to indigenous treatment?

(*b*) Are certificates from *Ayurvedic* practitioners generally accepted by office-masters and in courts of law?

(*c*) If not, are Government prepared to issue circulars asking the different departments to accept such certificates from well-known *Ayurvedic* practitioners? If not, why not?

Sir Frank Noyce: (*a*) Government are aware of the past history of the *Ayurvedic* system and that a considerable proportion of the population has recourse to indigenous treatment.

(*b*) and (*c*). Government are unable to accept certificates from practitioners over whom there is no official system of control or registration. Certificates are not accepted even from practitioners of Western medicine unless they are registered.

ABOLITION OF THE CREW SYSTEM ON THE EAST INDIAN RAILWAY

295. ***Mr. S. C. Sen** (on behalf of Pandit Satyendra Nath Sen): (*a*) Has the crew system been totally or partially abolished on the East Indian Railway? If so, why?

(*b*) If it is due to failure of the system what is the total amount of loss involved therein?

(*c*) Who is responsible for this waste of public money?

(*d*) How has he been dealt with by the authorities?

Sir Alan Parsons: (*a*) The Crew System has been entirely abolished on the East Indian Railway for the reasons given in paragraphs 35 to 41 of the Moody-Ward Committee's Report, a copy of which is in the Library of the House.

(*b*) The system did not fail, but it became apparent that to work it satisfactorily considerably more expenditure than was being incurred would be necessary.

(*c*) and (*d*). Do not arise.

Dr. Ziauddin Ahmad: Is it not a fact that the Assembly was given to understand that the crew system would be cheaper from the point of view of economy by wrong calculation?

Sir Alan Parsons: I must ask the Honourable Member for notice.

THE HAYMAN-MAHINDRA TICKET PUNCHING MACHINE.

296. ***Mr. S. C. Sen** (on behalf of Pandit Satyendra Nath Sen): (*a*) Was or is there any punching machine styled "the Hayman-Mahindra punching machine" introduced in the East Indian Railway?

(*b*) If it has been discontinued, why?

(*c*) If it is due to failure what is the total amount of loss involved therein?

(*d*) At whose instance was the machine introduced?

(*e*) How has he been dealt with by the authorities?

Sir Alan Parsons: (*a*) Yes.

(*b*) The latest information which I have is that the Chief Operating Superintendent wished to continue the use of this punch in spite of the abolition of the crew system.

(*c*) There has been no failure.

(*d*) The East Indian Railway authorities.

(*e*) There has been no reason for disciplinary action against any one.

REDUCTION OF PAY OF AN OFFICER PREVIOUST ETIREMENT.

297. ***Mr. J. Ramsay Scott** (on behalf of Mr. G. Morgan): (*a*) Will Government be pleased to state whether it is contrary to the rules and practice of Government to reduce an officer's pay by placing him on a lower grade, immediately prior to retirement, on the abolition of his appointment, save for misconduct?

(*b*) Would such a reduction for the brief period of about 3 months during which he was given notice of the abolition of his appointment have the effect of reducing the pension of such an officer?

The Honourable Sir George Schuster: (*a*) and (*b*). Pension is calculated on the "average emoluments" of the last three years of service; and "emoluments" for the purpose include both pay proper and certain kinds of duty allowances. The Honourable Member will appreciate the fact that in the course of the present economy campaign Government have been reviewing such allowances and curtailing them when this could equitably be done; and in addition have reduced the number of posts created for special purposes and often carrying higher emoluments than those attaching to an officer's substantive post. Officers reverted shortly before they are selected for retrenchment from such better paid posts to the time-scale posts on which they hold a lien will inevitably suffer *pro tanto* a reduction in their "average emoluments" for pensionary purposes, but only in respect of the period for which the reversion is effective. As however, on this occasion Government propose to concede to officers retrenched the privilege of counting leave enjoyed pending retirement as qualifying service for pension, the effect of reversion to a lower paid post shortly before discharge will be substantially mitigated for the average officer of under 25 years' service.

VISIT OF THE DIRECTOR OF THE CENTRAL PUBLICITY BUREAU TO MEERUT IN CONNECTION WITH THE MEERUT CONSPIRACY CASE.

298. ***Mr. S. C. Mitra:** Will the Honourable the Home Member kindly state:

(*a*) whether it is a fact the then Director of the Central Bureau for Information of the Government of India Mr. Bajpai paid a visit to Meerut shortly before or after the late Mr. Langford James, the Special Public Prosecutor, began his opening address before the Magistrate entrusted with the enquiry of the Meerut Conspiracy case; and

(*b*) whether it was reported in the papers that the visit of this distinguished official to Meerut was in connection with the arrangement for publicity of the proceedings including the opening address of the learned Special Public Prosecutor?

The Honourable Sir James Crerar: (*a*) and (*b*). I would invite the attention of the Honourable Member to the answer given by me in this House on the 5th September, 1929 to Mr. Gaya Prasad Singh's question No. 156 on the same subject.

Mr. N. M. Joshi: May I ask, Sir, whether, owing to the fact that the Retrenchment Committees had gone into the expenditure of the Meerut trial, they have made any suggestions for economy in connection with that trial?

The Honourable Sir James Crerar: I do not think, Sir, that arises from this question.

COMMENT ON THE MEERUT CONSPIRACY CASE IN THE *Times of India Annual*.

299. ***Mr. S. C. Mitra:** (*a*) Has the attention of the Honourable the Home Member been invited to an article in the *Times of India Annual* for 1930?

(*b*) Is it a fact that there is a reference in the article in question to the Workers' and Peasants' Party as a Communist organisation?

(*c*) Is it a fact that in 1929 the late Mr. Langford James, Special Public Prosecutor, Meerut Conspiracy Case, under instructions from his client the Government of India moved the Honourable High Court, Allahabad, for a writ of contempt of Court against Mr. Wilson the then editor of *Pioneer* as well as the Proprietors and publishers of the paper for the publications of certain comments in editorials?

(*d*) Is it a fact that one of the editorials complained against was a comment on the inclusion of a body called the Labour Research Department in the list of those persons and bodies submitted by the Prosecution before the Enquiry Magistrate as co-conspirators with the accused in the Meerut conspiracy case?

(*e*) Is it a fact that the Honourable High Court accepted the contention of the learned Special Public Prosecutor and fined the editor and publishers?

The Honourable Sir James Crerar: (*a*) and (*b*). I have not been able to trace any article in the *Times of India Annual* of the kind referred to.

(*c*) Yes, against the editor. The proprietors and publishers were not included in the plaint.

(*d*) Yes.

(*e*) The editor's apology was accepted. No action was taken against the publishers.

TRADE BALANCE OF INDIA.

300. ***Lala Rameshwar Prasad Bagla:** Will Government be pleased to state what the position of the trade balance of India was during the last six months?

The Honourable Sir George Rainy: The Honourable Member is referred to the monthly volumes of the Sea-borne Trade Accounts, copies of which are in the Library. A summary statement of the balance of trade is included in the introductory pages of each of those volumes.

VALUE OF IMPORTS AND EXPORTS OF INDIA AND BURMA.

301. ***Lala Rameshwar Prasad Bagla:** Will Government be pleased to lay on the table a statement showing the total value of imports and exports of India including Burma for the last five years, as also the total amount expended under the head "home charges" in each of such years?

The Honourable Sir George Rainy: The Honourable Member is referred to the sixty-fourth issue of the Annual Statement of Sea-borne Trade of British India, Volume I, the Monthly Accounts of the Sea-borne Trade for March, 1931 and Account Nos. 6 and 9 of the Finance and Revenue Accounts. Copies of all these volumes are in the Library.

Mr. B. Das: Is the Honourable Member aware that these publications are not now-a-days supplied to the Members of this House?

The Honourable Sir George Rainy: I did not say they were supplied.

Mr. B. Das: Is the Honourable Member aware that the books were used to be supplied in former days but now they are not supplied to us and so we cannot refer to them?

The Honourable Sir George Rainy: The Honourable Member is no doubt aware that we are living in an era of retrenchment.

CURRENCY AND EXCHANGE POLICY OF THE GOVERNMENT.

302. *Lala Rameshwar Prasad Bagla: Are Government aware that there is a large body of public opinion in favour of the impression that the present currency and exchange policy of the Government is responsible for the present economic situation of the country?

The Honourable Sir George Schuster: Government believe that they have correct appreciation of the various currents of public opinion in this matter.

Dr. Ziauddin Ahmad: Is it not a question of opinion?

The Honourable Sir George Schuster: The question was whether Government was aware of certain state of public opinion and I think my answer is a sufficient reply to that question.

LOW PRICE OF SILVER.

303. * Lala Rameshwar Prasad Bagla: (*a*) Will Government be pleased to state if any communication regarding the economic condition to which the poor agriculturist has been reduced by the existing low price of silver, has been received by them from the International Chamber of Commerce in connexion with a similar question?

(*b*) If the answer to part (*a*) be in the affirmative, will Government be pleased to lay on the table, for the information of the House, copies of correspondence in this connection between the said Chamber and Government?

The Honourable Sir George Schuster: (*a*) No.

(*b*) Does not arise.

EXPORT OF GOLD FROM INDIA.

304. *Lala Rameshwar Prasad Bagla: (*a*) Will Government be pleased to state in round numbers the total value of gold exported from India since England has gone off the gold standard?

(*b*) Are Government aware that there is a strong impression in this country that Government are not putting any embargo on the export of gold primarily in the interests of Great Britain, even at the sacrifice of the financial and economic well-being of people of this country?

The Honourable Sir George Schuster: (*a*) Approximately 47 crores, to the end of January, valued at current prices.

(*b*) Government are aware that malicious attempts to produce such an impression have been made in certain quarters.

TRANSFER OF THE IMPERIAL INSTITUTE OF DAIRYING FROM BANGALORE TO KARNAL.

305. *Mr. H. P. Mody: (*a*) Has the attention of Government been drawn to an article that appeared in the *Times of India* in December last, on the question of the transfer of the Imperial Institute of Dairying from Bangalore to Karnal?

(*b*) Is such a transfer under contemplation?

(*c*) If so, will Government be pleased to state what advantages, either from the point of view of economy or efficiency, are expected to accrue from the proposal?

(*d*) If the answer to part (*b*) is in the affirmative, are Government prepared to reconsider their decision, to disturb the Institute at Bangalore and disorganize the educational and other activities at present carried on at that Institute?

Sir Frank Noyce: (*a*) Yes.

(*b*), (*c*) and (*d*). With your permission, Sir, I will reply to parts (*b*), (*c*) and (*d*) of the question together. As a result of the recommendations of the General Purposes Sub-Committee of the Retrenchment Advisory Committee, it was originally decided that the three sub-stations of the Pusa Institute at Bangalore, Wellington and Anand should be abolished, the Karnal Cattle Breeding Farm alone being retained. This decision is, however, under re-examination in the light of certain important considerations which have since been brought to the notice of Government.

ADMISSION OF STUDENTS OF INDIAN UNIVERSITIES TO THE SOCIETY OF INCORPORATED ACCOUNTANTS AND AUDITORS, LONDON.

306. *Mr. H. P. Mody: (*a*) Will Government be pleased to state whether their attention has been drawn to the special rules proposed for the admission of students of Indian Universities to the membership of the Society of Incorporated Accountants and Auditors, London, as a result of which the doors of the Society will be almost closed to Indian students?

(*b*) If the answer to part (*a*) is in the affirmative, will Government be pleased to state what action, if any, they propose to take to protect the interests of Indian students?

The Honourable Sir George Rainy: (*a*) and (*b*). The Government of India understand that certain revised regulations concerning Indian students have been made by the Society of Incorporated Accountants and Auditors, London. The matter is receiving their consideration.

DISPARITY OF SEXES AMONG INDIAN IMMIGRANTS IN THE MALAY PENINSULA.

307. *Mr. S. C. Mitra (on behalf of Mr. Nabakumar Sing Dudhoria) Will Government be pleased to state:

(*a*) whether they are aware of a serious disparity of the sexes among the Indian immigants in the Malay Peninsula;

(*b*) whether there has been an earnest demand from the local Immigration Committee to remove that disparity of sexes at an early date;

(*c*) whether they themselves recognised the importance of that situation for a long time; and

(*d*) the causes for which they have so long desisted from devising ways and means for a solution of that problem?

Sir Frank Noyce: (*a*) The figures of Indian population in Malaya according to the census which was taken last year show that there were 48 females to 100 males. Separate figures for Indian labourers who have emigrated under the Indian Emigration Act are not available.

(*b*) Government have no information.

(*c*) and (*d*). The question of securing a proper sex ratio amongst Indian immigrant labourers in Malaya has been engaging the attention of the Government of India and they have granted from time to time temporary exemptions from the operation of rule 23 of the Indian Emigration Rules. The last exemption expired on the 31st December, 1931. The matter will be taken up for consideration again when emigration to Malaya, which has been stopped for the present, is resumed.

INCOME-TAX ASSESSMENTS IN BOMBAY.

308. ***Bhai Parma Nand:** (*a*) Are Government aware that in Bombay the Income-tax Officer in certain assessments consults the appellate officer before fixing the final assessments?

(*b*) If Government are not aware, are they prepared to call for reports from various Provinces if such is the case there?

(*c*) In the meantime, do Government propose to direct that when the appellate officer has been consulted before the assessment the appeals should be referred to other authorities and not the authority previously consulted?

The Honourable Sir George Schuster: (*a*) to (*c*). The Central Board of Revenue has directed that Assistant Commissioners of Income-tax should avoid interfering in individual assessments, and that whenever for any reason an Assistant Commissioner has identified himself with an assessment, he should move the Commissioner of Income-tax to appoint him as Income-tax Officer in respect of that case, when the appeal will lie to the Commissioner. The Government have no reason to suppose that these orders are not being generally observed. The attention of Commissioners will, however, be again drawn to them. The Commissioner has no power as the law stands to transfer an appeal from one Assistant Commissioner to another.

EXAMINATION OF ACCOUNTS FOR INCOME-TAX ASSESSMENT.

309. ***Bhai Parma Nand:** (*a*) Are Government aware that in Bombay and other places the present practice followed in examination of accounts for income-tax assessment is causing much resentment in the public mind?

(*b*) Is it a fact that about fifteen to twenty assessees are called before the chief examiner and they have to wait there indefinitely without any intimation as to when their cases are likely to be taken up?

(*c*) Are Government aware that the chief examiner with about twenty-five assistants sits down in one big hall and thereby destroys even the semblance of privacy?

(*d*) If so, do Government propose to direct that in future steps should be taken to observe strict privacy at the time of the examination of the accounts and the account-books?

The Honourable Sir George Schuster: The information is being obtained and will be furnished to the Honourable Member in due course.

WRITING OFF BAD DEBTS OF ASSESSEES.

310. ***Bhai Parma Nand:** (*a*) Are Government aware that in Bombay and other places much dissatisfaction is felt about the rule followed by the income-tax authorities in the matter of writing off bad debts of the assessees?

(*b*) Is it a fact that there is no hard and fast rule laid down under the existing law for allowing the bad debts of a firm to be written off and deducted from the income of the assessee, and that the income-tax officer assumes himself to be the best judge whether the assessee should or should not write off bad debts?

(*c*) Do Government propose to direct that due regard should be paid to what the assessee finds necessary in the circumstances?

(*d*) Are Government prepared to have the rules so amended as to provide a sufficient safeguard in the interest of the assessee?

The Honourable Sir George Schuster: (*a*) The Government are aware that the point has been discussed from time to time when Members of the Central Board of Revenue have met bodies representing the business communities and that it has also on several occasions formed the subject of references to the High Courts.

(*b*) No.

(*c*) and (*d*). The question as to what discretion an assessee legally possesses, in regard to the time when he is entitled to write off a bad debt against his profits assessable to income-tax has been on several occasions before the Indian Courts, and various decisions not entirely consistent with one another have been given. An important case which raises this issue in a clear form is at present the subject of an appeal pending before the Privy Council. The Government will consider their future action in this matter when this appeal is decided.

INCOME AND WORKING EXPENSES OF BANKS AND FIRMS.

311. ***Bhai Parma Nand:** (*a*) Are Government aware that the Banks, *e.g.*, the Imperial Bank of India and other limited concerns are allowed over 70 per cent. of their gross income as working expenses whereas private firms and companies are not allowed even 20 per cent. of their gross income and even actual expenses are not allowed?

(*b*) Are Government prepared to direct that proper steps be taken to remove this anomaly?

The Honourable Sir George Schuster: (*a*) The Honourable Member's question is most obscure. I presume that it refers to income-tax assessment although this is not stated.

The legal position in regard to the expenses that can be claimed as a deduction in computing business income is clearly stated in section 10 of the Income-tax Act. If those provisions are not observed, any person aggrieved has statutory remedies under the Act, including a reference to the High Court and an appeal to the Privy Council.

I do not understand the Honourable Member's reference to percentages. Actual expenses are to be allowed, not arbitrary percentages of gross income.

(*b*) I have no reason whatever to suppose that the law on this subject is not observed. This part of the question, therefore, does not arise.

TENDERS FOR STONE FOR THE BHAKHAR DAM SCHEME.

312. ***Bhai Parma Nand:** (*a*) Is it a fact that No. 23 Survey Party of the Government of India was engaged in making a survey for the Bhakhar Dam scheme?

(*b*) Is it a fact that in the month of June or July 1931 the officer-in-charge of the party invited tenders for the supply of 40,000 mark stones each weighing 1½ mds.?

(*c*) If the answer to part (*b*) is in the affirmative, will Government please lay a list of the names of persons who offered their tenders along with their rates?

(*d*) What are the names of the contractors whose tenders were accepted and at what rates?

(*e*) Are Government aware that the mark stones used in the district of Hissar at least are not according to the sample and can be had in the market each for a few annas?

Sir Frank Noyce: (*a*) Yes.

(*b*) Yes, but the weight of the stones was 1¼ maunds and not 1½ maunds each.

(*c*) Altogether 78 tenders were received. The five lowest tenders and their amounts were as follows:

Ram Nath Sahgal, Delhi, Rs. 38,771.

Messrs. Lakshmi Chand & Co., Delhi, Rs. 39,065.

Seth Bakhtawar Singh, Kankhal, Rs. 40,379.

Messrs. Imrat Mall & Sons, Jullundur Cant., Rs. 40,677.

Chaudhari Ram Singh, Delhi, Rs. 42,349.

(*d*) Chaudhari Ram Singh's tender was accepted. It was higher than the other four I have mentioned, but was preferred as they were not considered to be as satisfactory in other respects.

(*e*) Government have no information, but enquiries are being made.

CENSUS FIGURES.

313. ***Mr. Badri Lal Rastogi:** Will Government kindly lay on the table a statement, according to the last census or the census of 1921, showing, province by province:

(*a*) the total number of males and females;

(*b*) the total number of literates and illiterates;

(*c*) the total number of male and female adults of or above the age of 21 years?

The Honourable Sir James Crerar: Complete figures for the 1931 Census are not yet available as regards (*b*) and (*c*) of this question. I therefore refer the Honourable Member to pages 76-82 of Part II—Tables, Volume I of the Census of India, 1921 and to the answer given to the Honourable Member's question No. 314.

PERCENTAGE OF EDUCATION AND PROPORTION ENFRANCHISED.

314. ***Mr. Badri Lal Rastogi:** (*a*) Will Government please state the percentage of education per head of the population of each province of India?

(*b*) Will Government kindly state the total number of persons, male and female, who were enfranchised in the last electoral rolls of each and every provincial Legislative Council, together with its total population?

The Honourable Sir James Crerar: (*a*) If I correctly understand the Honourable Member, he wishes to know the percentage of literate persons. The figures for the recent Census are at present available only for the first five provinces in the following table. For the remaining five the percentages are taken from the 1921 census statistics:

Province.	*Percentage.*	
Bengal	9·3	1931
United Provinces	4·7	1931
Punjab	5·0	1931
Central Provinces	5·1	1931
Assam	7·5	1931
Madras	8·6	1921
Bombay	8·3	1921
Bihar and Orissa	4·5	1921
Burma	27·7	1921
North-West Frontier Province	4·3	1921

(*b*) The electorate for each provincial Legislative Council is set out in the Returns showing the Results of Elections in India in 1929-1930, while statistics of the population of each province were published in Table A attached to Home Department Resolution No. F.-45/13/31-Public, dated the 19th September, 1931. Copies of the Return and the Resolution are available in the Library of the House.

STAMPS FOR LETTERS ADDRESSED TO POSTAL OFFICIALS.

315. ***Mr. Badri Lal Rastogi:** (*a*) Will Government be pleased to state if stamps are now required to be affixed to letters that are addressed to the postal authorities?

(*b*) If the answer to part (*a*) is in the affirmative, since when has this rule come into force?

(*c*) How much income has accrued from this rule having been enforced upto 31st January, 1932?

Mr. T. Ryan: (*a*) Yes.

(*b*) Letters addressed to postal authorities have always had to be stamped except that complaints against the post office were transmitted free of postage until 31st December, 1931. From 1st January, 1932, the free transmission of complaints has been stopped.

(*c*) The information is not available.

NINE-PIE POSTCARDS AND SIXTEEN-PIE ENVELOPES.

316. ***Mr. Badri Lal Rastogi:** (*a*) Will Government please state as to when the 9-pie postcard and 16-pie envelope will be available in the post offices all over India for sale?

(*b*) Are Government aware that in the absence of the new postcard and envelope the public are put to considerable vexation and trouble specially when their insufficiently stamped postcards are destroyed in the post offices without any knowledge on their part?

The Honourable Sir Joseph Bhore: (*a*) The 9 pies postcards are expected to be available for sale from the more important post offices early next month. No definite date can be given for the issue of 1½ anna envelopes but it will be as soon as possible.

(*b*) It is possible. But it may be added that post offices have instructions to affix quarter anna stamps to postcards before their sale to the public.

REDUCTION OF PAY OF SUPERINTENDENTS OF POST OFFICES.

317. ***Seth Haji Abdoola Haroon:** (*a*) Is it not a fact that the pay of the Superintendents of Post Offices is reduced by ten per cent. and they are further reduced from first class to second class in regard to travelling allowance?

(*b*) Is it not a fact that the Superintendents of post offices enjoyed the privileges of 1st class officers since 1870?

(*c*) Are Government prepared to consider their position as first class officers?

The Honourable Sir Joseph Bhore: (*a*) and (*b*). Yes.

(*c*) Government regret that they are unable to reconsider their decision. All that has been done is to enforce the ordinary rule as to the classification of the officers for purposes of travelling allowance, and to discontinue the special exception of which they have been given the benefit in the past.

IMPORTATION OF WOOD PULP INTO INDIA.

318. ***Kunwar Raghubir Singh:** (*a*) Will Government be pleased to state if they are aware that large quantities of wood pulp are imported into India without protective duty and it is killing the sabai grass industry of India?

(*b*) Have Government considered the question of levying a duty on foreign wood pulp?

(*c*) Are Government prepared to consider the question of protecting the sabai grass industry; if not, why not?

The Honourable Sir George Rainy: I would refer the Honourable Member to the Tariff Board's Report on the Paper and Paper Pulp Industries, the Commerce Department Resolution No. 202-T. (28), dated the 3rd February, 1932, copies of which have been supplied to him, and to the Bamboo Paper Industry (Protection) Bill now before the House.

UTILISATION OF FINE FUNDS ON RAILWAYS.

319. ***Kunwar Raghubir Singh:** Is it a fact that the fine fund in railways is utilised more for Anglo-Indians' education than for Indian railway employees' boys?

Sir Alan Parsons: Information is available for the year 1925-26 only. In that year recurring expenditure on railway schools was met from Fine Funds to the amount of Rs. 11,831 for European railway schools and Rs. 30,397 for Indian railway schools.

Mr. N. M. Joshi: May I ask whether the fines fund is looked after by any committee including the representatives of workers?

Sir Alan Parsons: I hardly think that that arises out of this question, Sir.

Mr. N. M. Joshi: It arises out of the question in this way: the question is what is the proportion; and there is evidently a complaint that more money is spent on certain objects than ought to be the case. I wanted to know whether there is any provision for seeing to the proper distribution of the fines fund.

Sir Alan Parsons: My submission is that the Honourable Member is asking about the form of the administration of the Fines Fund: the main question is about the distribution of revenue in the fines fund.

Mr. K. Ahmed: In view of the fact that only Rs. 30,000 is spent for Indian Schools while Rs. 11,000 is spent for the European Schools, do Government propose for the benefit of the people who mainly contribute to the fund to utilise this money with the help of a committee which will handle it better than the railway staff themselves, including the Honourable Member?

Sir Alan Parsons: My previous submission equally applies to this supplementary question: I have no objection, however, to explaining, that we have entirely reorganised the administration of the fine fund.

Dr. Ziauddin Ahmad: Is the amount of fine credited in the income and the amount shown in the Railway Budget?

Sir Alan Parsons: I think not.

Dr. Ziauddin Ahmad: I want to know the fact, whether it is so or not.

Sir Alan Parsons: The Honourable Member must then give notice. I cannot be expected to retain in my memory these petty details of railway accounts.

EMPLOYMENT ON RAILWAYS OF SONS OF RAILWAY SERVANTS.

320. ***Kunwar Raghubir Singh:** Is any preference shown to candidates for Railway service who are sons of Railway employees, and if not, why not?

Sir Alan Parsons: A preference is given *vide* rule 63 of rules for the recruitment and training of subordinate staff on State-managed railways, a copy of which is in the Library.

FREE PASSES FOR CHILDREN OF RAILWAY EMPLOYEES.

321. ***Kunwar Raghubir Singh:** Is it a fact that in other State Railways free passes for daily use for the children of Railway employees are issued whereas in the East Indian Railway old servants are allowed only two sets of passes in a year? Why is there this difference?

Sir Alan Parsons: I regret that I am unable to see any correspondence between the passes issued by the East Indian Railway Administration to its retired employees for their own use, and those issued by other railways to the children of serving employees to enable them to go to school.

LEAVE AND PASSES FOR PORTERS OF THE EAST INDIAN RAILWAY.

322. ***Kunwar Raghubir Singh:** Will Government please state why no leave nor passes are given to porters in the East Indian Railway?

Sir Alan Parsons: Porters who are employees of the railway are entitled to leave and passes under the leave and pass rules in force on the East Indian Railway.

REGULATIONS FOR THE ARMY IN INDIA RESERVE OF OFFICERS.

323. ***Mr. Gaya Prasad Singh:** (*a*) Has the attention of Government been drawn to paragraph 7 (*b*) of the Regulations for the Army in India Reserve of Officers, 1926 (page 3), which runs thus:

> "Other previous King's commissioned service in any branch of His Majesty's British India or Dominion naval, military (including the Auxiliary Force, India, and the Indian Territorial Force, or air forces whether regular or otherwise) will count in full"?

(*b*) Has the attention of Government been drawn to paragraph 7 (*b*) of the Regulations for the Army in India Reserve of Officers, 1928, in which the expression "the Indian Territorial Force" has been deleted, with the result that *ex*-Indian Territorial Force officers are excluded from appointment to the Reserve? If so, why?

(*c*) If such officers are not excluded from appointment to the Reserve why the expression "the Indian Territorial Force" has been deleted from the Regulations of 1928, referred to in part (*b*) above? If they are eligible how many of such officers have been appointed up to date in the infantry, etc., category of the Army in India Reserve of Officers?

(*d*) Do Government propose to amend Regulation 5 (*b*) of the Regulations for the Army in India Reserve of Officers, so as to make *ex*-Officers of the Indian Territorial Force, holding a Government appointment of non-gazetted status eligible for the Reserve? If not, why not?

Mr. G. M. Young: (*a*) The regulations in question were framed and issued by Government.

(*b*) and (*c*). The Regulations of 1928 also were framed and issued by Government. The correction was made because, formerly, officers of the Indian Territorial Force did not hold King's Commissions. The revised Regulations however refer to seniority in the Army in India Reserve of Officers, and do not exclude an ex-officer of the Indian Territorial Force from appointment to the Reserve of Officers. The information asked for in the latter part of (*c*) is not available, and could not be complied without a disproportionate expenditure of time and labour.

(*d*) No amendment is required to Regulation 5 (i) (*b*) as ex-officers who have held the King's Commission in the Indian Territorial Force will now be eligible for appointment to the reserve under Regulation 5 (i) (*a*) whatever their civil status may be.

EMPLOYEES OF THE NORTH WESTERN RAILWAY RETRENCHED.

324. ***Shaikh Fazal Haq Piracha:** Will Government be pleased to lay on the table of this House, a statement in the tabular form (given below) showing figures of the employees on the North-Western Railway, that have come under reduction, in effecting retrenchment?

I	II				III	IV
Salary drawn.	No. of persons come under reduction, and drawing salaries as shown in column No. I.				Total.	Percentage of Mussalmans turned out of Service.
	Hindus.	Sikhs.	Christians.	Muslims.		
(1) Rs. 20 and below.						
(2) Rs. 21 to Rs. 50						
(3) Rs. 51 to Rs. 100						
(4) Rs. 101 to Rs. 250						
(5) Rs. 251 to Rs. 500						
(6) Above Rs. 500						

Sir Alan Parsons: A statement giving the available information is laid on the table.

Statement showing the number of employees discharged on North Western Railway during the recent economy campaign.

Railway.	Gazetted officers.	Subordinates on scales of pay rising to Rs. 250 and over.	Employees on scales of pay rising to Rs. 100 and over but less than Rs. 250.	Employees on scales of pay rising to Rs. 30 and over but less than Rs. 100.	Employees on scales of pay rising to less than Rs. 30.	Total subordinates.	Remarks.
North Western Railway .	15	7	65	2,465	6,716	*9,253	

Information of retrenchment by communities.

*Europeans	2
Anglo-Indians	22
Hindus	2,894
Muslims	5,706
Others	629
Total	9,253

RETRENCHMENT OF MUSSALMAN EMPLOYEES ON THE NORTH WEST RN RAILWAY.

325. ***Shaikh Fazal Haq Piracha:** (*a*) Are Government aware that the Mussalman employees on the North Western Railway have been hard hit in effecting retrenchment and no sympathy was shown to them, by the officers concerned?

(*b*) Were any instructions issued by Government to the heads of the various Railway Departments, that in the matter of reduction, special consideration should be shown in case of Mussalman employees, in order to keep their fair percentage in the Railway Departments? If not, why not?

Sir Alan Parsons: (*a*) Any scheme of retrenchment must necessarily cause a certain amount of hardship to the employees.

The reply to the latter part of the question is in the negative.

(*b*) The instructions issued by Government to Railway Administrations were to the effect that all practical steps should be taken to see that the unfortunate necessity for reducing staff does not operate to the detriment of communities not at present adequately represented in railway services.

MEMBERS OF THE LEGISLATIVE ASSEMBLY NOMINATED TO RETRENCHMENT COMMITTEES.

326. ***Mr. M. Maswood Ahmad:** Will Government please state the names of the various Retrenchment Sub-Committees, showing therein:

(1) the number of those elected Members of the Assembly who belong to one or the other party of the Assembly and who were nominated to each of these committees; and

(2) the number of unattached Members of the Assembly who were nominated to each of these committees?

The Honourable Sir George Schuster: A statement is laid on the table.

Statement showing the classification of the Elected Members of the Legislative Assembly who served on various Retrenchment Sub-Committees according to Parties.

Name of Sub-Committee.	Nationalist Party.	Independent Party.	European Group.	United India Party.	No Party.
Army Retrenchment Sub-Committee.	1	1	..	..	1
Railway Retrenchment Sub-Committee.	1	1	1	..	1
Posts and Telegraphs Retrenchment Sub-Committee.	1	1	..	1	..
Stores, Stationery and Printing Retrenchment Sub-Committee.	2	..	..	..	1
Public Works and Accounts and Audit Retrenchment Sub-Committee.	1	..	1	..	..
General Purposes Retrenchment Sub-Committee.	1	4	1	..	1
Total .	7	7	3	1	3

MOTION FOR ADJOURNMENT.

PUBLICATION IN THE PRESS OF THE ASSEMBLY SPEECHES.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I have received a notice from Mr. C. S. Ranga Iyer that he proposes to ask for leave to make a motion for the adjournment of the business of the House today for the purpose of discussing a definite matter of urgent public importance as follows:

"The unsatisfactory reply of the Honourable the Home Member to a question of Sardar Sant Singh, M.L.A., regarding the publication in the press of the Assembly Speeches."

I should like to ask the Honourable Member to explain why he considers this to be an unsatisfactory answer and how it is a definite matter of urgent public importance.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, I shall first deal with the latter part of your question, namely, how it is a definite matter of urgent public importance. The matter is definite. The question that my friend Sardar Sant Singh put was a definite question and the answer that the Honourable the Home

[Mr. C. S. Ranga Iyer.]

Member gave was equally definite. This is the answer that he gave I read from the official report:

"No rules or orders of the kind suggested by the Honourable Member have been issued. The right of free speech secured to Honourable Members of this House by section 67 (7) of the Government of India Act is not affected by any Ordinance. I would, however, point out that the protection afforded by the section does not extend to the publication of reports by newspapers of which the liability is determined by the ordinary law, including the Press Act of 1931, and by the provisions of the Ordinances—*in particular* by section 63 of Ordinance No. II of 1932."

Sir, the urgency arises from the fact that the question was answered by the Honourable the Home Member at the last meeting of the Assembly . . .

Mr. President: The Honourable Member need not dilate on that aspect of the matter: I accept that it is urgent.

Mr. C. S. Ranga Iyer: Therefore the only point is the unsatisfactory character of the reply; and I shall prove in the first place that the Honourable the Home Member applied two laws to publications in the Press of proceedings in this House, not only the ordinary Press Act which was duly considered by the Select Committee and passed on the floor of this House, but also the Ordinances which have not been brought before this House. There he is applying the Ordinances to the speeches to be published outside—Ordinances which have amended the Press Bill. Secondly he pointed out that he was relying on May's "Parliamentary Practice": I would refer the Honourable the Home Member to May's Parliamentary Practice, p. 109, which speaks of the privilege and the protection of debates, where it says:

"The privilege which protects debates extends also to reports and other proceedings in Parliament. In the case of Hex. *v.* Wright, Mr. Horne Tooke applied for a criminal information against a bookseller for publishing the copy of a report made by a Commons' Committee, which appeared to imply a charge of high treason against Mr. Tooke, after he had been tried for that crime and acquitted."

"The rule, however, was discharged by the court partly because the report did not appear to bear the meaning imparted to it"—(and what follows bears out my point),—"and partly because the court would not record the proceedings of either House of Parliament as a libel."

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and therefore the Honourable the Home Member's statement about the application of the Press Act as amended by the Ordinances without the permission of the House is a violation of what is subsequently stated in May's "Parliamentary Practice". Secondly, there is also another observation in May's "Parliamentary Practice" to which I would respectfully invite your attention.

"The publication of debates of either House has been repeatedly declared to be a breach of privilege, and especially false and perverted reports of them; and no doubt can exist that if either house desire to withhold their proceedings from the public, it is within the strictest limits of their jurisdiction to do so, and to punish any violation of their orders."

So long as the House sits as an open House, so long as its procedure is not withheld from the public, and so long as the proceedings of the House are published in the Government publications which are available for five annas, I do not see why the same thing should not be made available to the public for one anna or less by its being published in the

newspapers, and therefore, Sir, I consider the statement of the Honourable the Home Member is not only a violation of the rights of this House, but a restriction of the privileges of this House by applying the Ordinances to speeches delivered in this House.

The Honourable Sir James Crerar (Home Member): Mr. President, I propose to restrict myself entirely to the point of order. I think it is clear that the issue raised in the Honourable Member's motion, and it is even more clear after the remarks which have fallen from him, that the real issue involved in his motion is not whether my reply was satisfactory or not, but whether the state of the law to which he referred is satisfactory or not. That being the case, I submit that the matter is not one which can be regarded as a specific matter of recent occurrence within the meaning of rule 12. Obviously no statement of mine made in reply to a question could possibly affect the law or its operation in regard to any matter, whether inside or outside the walls of this House. The real issue which the Honourable Member's motion raises is that the state of the law is, in his opinion, unsatisfactory and that, I submit, is not a recent matter within the meaning of the legislative rules.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): Sir, whatever may be the side issue of the question raised here, I do not mind telling the Honourable the Home Member at once that he relied on a certain authority and quoted "May's Parliamentary Practice", while my friend the Deputy Leader of the Nationalist Party also quoted from the same authority and pointed out just now that the Home Member's quotation was a misapplication, and therefore instead of saying whether the answer that was given was satisfactory or not, we must point out that the Honourable the Home Member's authority was wrongly quoted and it was a misapplication of the law to the point at issue, because the statement made by my Honourable friend Mr. Ranga Iyer has been supported by May's "Parliamentary Practice". I want therefore that full satisfaction should be given to the House and the Honourable the Home Member should revise the answer. ("Hear, hear" from the Nationalist Benches.)

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): At this stage the only point that is relevant is the privilege of the House. The question and the answer given by the Honourable the Home Member have only focussed the mind of this House upon the main question as to what is the privilege of the House in relation to the proceedings of this House. That is a short question. Now, Honourable Members will find that under the circular issued by your predecessor and under the rules which that circular lays down, the admission to the Press Gallery will be given only on condition that certain disciplinary action would be acceded to, and further that a fair report of the proceedings will be published in the newspapers. That being one of the conditions for the admissibility of reporters to the Press Gallery, it becomes an integral part. That is the first point. We have, therefore, a rule made by you, Sir, that everybody who comes to the Press Gallery, *inter alia* is under a duty to publish a fair report of the proceedings of this House. That being the case, the Parliament has laid down in the House of Commons in the two passages referred to by my friend the Mover of this motion that the proceedings of the House are so privileged that even if they amount to defamation of a man's character, that privilege extends to the newspaper which publishes the proceedings of the House outside the House. That

[Sir Hari Singh Gour.]

being the extent of the privilege, the question arises whether by the enactment of the Ordinances that privilege has not been violated or departed from. That is the whole question. Now, I do not think the Home Member will for one moment contend that when we enacted the Press Act in the last session of this House we laid down certain rules. Over and beyond the Press Act the Ordinance has now laid down certain other rules, and if those rules impinge upon the privilege of the House, it is for this House to take cognisance of its privileges and of that part of the Ordinance. Therefore, it is a matter both of public and of urgent public importance.

One more fact to which I wish to draw the attention of the Honourable the Home Member himself, and I am sure he will concede in all fairness that point; it is this. We are all here as representing our constituencies, and the only means of contact between ourselves and our constituencies is the medium of the Press. Therefore, if our doings in the Press are not fairly published in the Press and brought to the notice of our constituents, that will derogate from the representative character we possess in this House. Bills and measures are passed every day; we get telegrams from our constituents as to what action we should take, and when we make speeches for and against a particular measure or a particular Bill, we get immediately the approval or disapproval of our constituents. If, therefore, you are to draw a screen between this House and our constituents, you would be very seriously curtailing the right of the elected Members to discharge their duty in this House. Therefore the question becomes not merely a question of the interpretation or the *intra vires* character of any of the Ordinances, but it raises the much larger question affecting the very existence of the Indian constitutional rights of the Members of the popular Chamber and the rights of the people to guide, watch and control our action. From another point of view the position is exactly the same. There are the representatives of the Press and the public admitted to this House, so that they may watch our proceedings, and they may be able to approve or disapprove of them. If you were to shut out this fair criticism upon our action, can you say that it would not diminish the authority we possess of speaking in the name of the various constituencies in whose name and on whose behalf we appear in this House? That, I think, is a question which raises a very wide issue, and I would ask the Honourable the Home Member seriously to consider that aspect of the case.

Mr. Arthur Moore (Bengal: European): Sir, I think the real question at issue is whether the Honourable the Home Member has correctly stated the present state of the law in India as a result of the passing of the Ordinances. If he has,—and personally I believe that he has—then I do not see that the subject can be dealt with by the procedure of adjourning the House. My friend Mr. K. Ahmed has suggested that the Honourable the Home Member relied upon Sir Erskine May's "Parliamentary Practice". My recollection is that it is not so. The Honourable the Home Member stated the law in India. He was then asked a supplementary question by Mr. Lalchand Navalrai as to whether such a state of things existed in any other country, and he replied that it did, and as Mr. Lalchand Navalrai also mentioned England, he replied that that existed in England, and for that purpose he alluded to Erskine May. There

I submit that the Honourable the Home Member was incorrect ("Hear, hear" from Nationalist Benches), and I think that my Honourable friend Mr. Ranga Iyer's statement is more correct as regards the procedure in England. But as I understand the Home Member I take it that he is not likely to be wrong about the procedure in India. He has told us what is the state of the law in India. I may agree with my Honourable friend Mr. Ranga Iyer that it is not reasonable that this House should be allowed to publish its debates and can give them to the public without let or hindrance, whereas if a newspaper does the same thing it would be liable. But I submit that, that being the state of the law—and that has been the state of the law for some six weeks—the question cannot be urgent or suitably dealt with by a motion for the adjournment of the House.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran: Non-Muhammadan): Don't you agree with the view of the *Statesman* this morning?

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): I do not think that a matter like this requires very much of a debate. My Honourable friend, Mr. Moore, has told us that the Honourable the Home Member must have taken into account the Ordinances when he replied to the question the other day. Does that mean that the Ordinances apply to this House also? If that is so, let us have it plain and plump from the Honourable the Home Member. When I read the Ordinances I thought myself that they were wide enough to apply to the debates of this House and to the conduct of the Members of this House. I further thought that perhaps the Government would announce that the Assembly [illegible] suspended for the time being until the condition of things [illegible] tive authorised in the country. But if the Assembly is to go [illegible] then I do not see how it can be said that the Government somewhat by the proceedings in this Assembly to be published fully we not looked [illegible] no reference have got the power, if there is any speech on the floor of the [illegible] was specifically made in this House—you can stop it [illegible] issued by the executive to stop the publication of its proceedings, and they may be able to approve or disapprove of them. If you were to shut out this fair criticism upon our action, can you say that it would not diminish the authority we possess of speaking in the name of the various constituencies in whose name and on whose behalf we appear in this House? That, I think, is a question which raises a very wide issue, and I would ask the Honourable the Home Member seriously to consider that aspect of the case.

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Mr. President: [illegible] to Ordinances and [illegible] have no right to stop the publication of the speeches of Honourable Members simply because they think that in their opinion it will not serve the public interest. If the debates are not allowed to be published, then the position will be reduced to this. This House will be turned into a mere school debating society, as was mentioned by one Honourable Member not long ago. We are here not only to speak to the Government Benches opposite, but to speak to a wider audience, the public. This is our privilege, this is our right, and this is our duty. We have been sent here for that very purpose, and if we fail in that, if our speeches are not fully reported, then we fail to exercise the very duty to perform which we have been deputed by the people to this House. It will be depriving this House of its only useful function if the Government are to interfere and censor the speeches which are delivered in this Assembly. (Applause.)

The Honourable Sir George Rainy (Leader of the House): I only desire to say a very few words, Mr. President. The first point that I would make is this, that every word that has fallen from the Leaders of the two parties opposite has confirmed the accuracy of what my Honourable

[Sir George Rainy.]

friend the Home Member has said, that their view point is not that his answer was unsatisfactory but that the state of the law is unsatisfactory. My Honourable friend, Mr. Moore, pointed out that the only point in the answer which has been criticised is the statement as to the law in England, and that the accuracy of the statement of the law in India had not been challenged. That being so, I submit that the matter to which my Honourable friend Mr. Ranga Iyer wishes to direct attention does not really arise from the answer given by my Honourable friend but from circumstances antecedent to it. Now, Sir, my Honourable friend, Sir Abdur Rahim, enquired whether the Ordinances affected what went on inside this House. I should like to point out that in the answer my Honourable friend gave he expressly stated that the freedom of speech conferred upon the Members of this House by the Government of India Act was not affected by the Ordinances. I think that is so,—I am speaking from memory, Mr. President, but I believe that is so. That, therefore, removes all doubt about that point. I think that it is unnecessary for me to say more. The short point which I wish to re-emphasise is this, that what Honourable Members wish to raise is a question about the unsatisfactory state of the law and that that does not arise out of my Honourable friend's answer, because quite clearly the law is what it is, and no statement that my Honourable friend might make could affect the state of the law. (Applause.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I do not think any further discussion is necessary. I should like, before giving my ruling as to the admissibility of the motion, to point out that the answer which Mr. Ranga Iyer read out was to the following question. It was a starred question by Sardar Sant Singh enquiring "[illegible]der any Ordinance or rules made or orders issued by the exec[illegible]ut it raise[illegible]rity newspapers could be penalised for publishing reports of t[illegible] Indian co[illegible]gs of the Legislative Assembly". In that question there is[illegible]nd the righ[illegible] from another h[illegible] whatever to the ordinary law of the land. The question[illegible] the representati[illegible]y put whether under any Ordinance or rules made or orders[illegible] that they may w[illegible]ecutive authority, newspapers could be penalised for p[illegible]r disapprove of the[illegible]s of this House. To that question, which was restricte[illegible]ation, can you s[illegible]d not to the ordinary law, the answer given was that "Under [illegible]ernment of India Act no speeches in the Assembly can be penalised". If the Honourable Member had merely stated, as he did, that "the answer to (*a*), (*b*) and (*c*) was that no rules or orders of the kind suggested by the Honourable Member have been issued"—it would have been a complete reply to the question put and there would be nothing to which objection could have been taken but the Honourable Member goes on with his reply to say that the right of free speech secured to Honourable Members of this House by section 67 (7) of the Government of India Act is not affected by any Ordinance. I would however point out that the provisions of the section (this should be borne in mind) do not apply to the publication of reports by newspapers of which the liability is determined by the provisions of the law, including the Indian Press Act, 1931: I do not think any exception can be taken to this part of the reply either, but the real difficulty arises by the following further statement made by the Honourable Member "and by the provisions of the Ordinance in particular, by section 63 of Ordinance No. II of 1932". Before I proceed further with the various points urged I should like to ask the Honourable Member whether he is prepared to make a statement now, that so far as the publication of the proceedings of this House in the newspapers is concerned no Ordinance will affect them. If the Honourable Member is prepared to make that statement, then I think I would ask the Honourable Member, Mr. Ranga Iyer, to withdraw the notice of the adjournment motion which he has given. Let me make it perfectly clear that the ordinary law does apply, and this motion does not affect the ordinary law applying to the publication of the proceedings of the House. The only question is whether by Ordinances a new departure has been made in regard to the publication of the proceedings of this Honourable House. If the Honourable Member is prepared to make that statement, I think matters will be satisfactorily settled. If he is not, I will proceed to deal with the various arguments that have been advanced.

The Honourable Sir James Crerar: I think, Mr. President, the enquiry which you have addressed to me raises two questions, firstly, what is the actual effect of the law (because the Ordinance is a law), and secondly, how the courts would apply it. Now, I cannot make an authoritative statement as to the precise legal effect of an Ordinance. It is obviously a question, if and when the case arises, for the interpretation of the courts and I cannot possibly take upon myself to say authoritatively either what is the effect of the law or what would be the view taken upon it by the law courts. That is beyond my province.

Mr. President: The Chair is entitled to ask the opinion of the Law Member of Government who fortunately is present here. I should like to ask him whether he would be pleased to enlighten the House as to whether the issue of the Ordinances makes any difference in the matter of the publication of the proceedings of this House in the newspapers.

The Honourable Sir Brojendra Mitter (Law Member): I have been taken somewhat by surprise and I should like to consider the matter. I have not looked into the matter closely except for what I have heard on the floor of the House today.

Mr. President: Having regard to the great importance of the subject, I would ask the Honourable Member Mr. Ranga Iyer not to press his motion today. I will accept it for tomorrow after I have been able to consider the opinion of the Law Member of the Government of India.

Mr. C. S. Ranga Iyer: I respectfully bow to your suggestion and I request that this motion for adjournment may be taken up tomorrow.

THE BENGAL CRIMINAL LAW AMENDMENT (SUPPLEMENTARY) BILL—*contd.*

Mr. President: The House will now proceed with the further consideration of the following motion moved by the Honourable Sir James Crerar on the 3rd February, 1932:

"That the Bill to supplement the Bengal Criminal Law Amendment Act, 1930, be referred to a Select Committee consisting of Mr. C. S. Ranga Iyer, Mr. Amar Nath Dutt, Mr. B. Sitaramaraju, Mr. Abdul Matin Chaudhury, Mr. Arthur Moore, Rao Bahadur S. R. Pandit, Mr. Muhammad Anwar-ul-Azim, Mr. R. S. Sarma and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four."

[Mr. President.]

to which an amendment has been proposed by Mr. Amar Nath Dutt, namely, that his own name be omitted from the Select Committee, that the name of Sir Hari Singh Gour be added to the Select Committee and that the name of Diwan Bahadur Harbilas Sarda be added to the Select Committee.

Mr. C. S. Ranga Iyer: Sir, I wish a lead had been given on this motion by the Leader of the Independent Party instead of his Deputy Leader. Anyway I hope to wait to hear the Leader of the Independent Party in this matter because, alike by his ability and wide administrative experience and his close contact with men and things in Bengal, and the large space that he fills in this country as a distinguished lawyer and distinguished politician, his opinion would be worth having whether, and if so why, we should support this motion for reference to Select Committee and toe the line before us of Diwan Bahadur Mudaliar who is unfortunately not here and whose speech I shall therefore leave out of consideration. (*Sir Cowasji Jehangir*: "Why?") For the simple reason that I wish he was here to hear what I have got to say on his speech. And, Sir, there are more important aspects on which we could concentrate, namely, the observations of the Honourable the Home Member on the motion before this House. In the course of his speech, the Honourable the Home Member mentioned that a certain number of outrages had been perpetrated ever since the Criminal Law Amendment Act had been in existence and ever since this supplementary Bill had been before this House and circulated for opinion. Since the consideration of this question, there has been unfortunately a very shocking outrage perpetrated in Bengal when His Excellency the Governor was the guest of the University and was delivering his Convocation address. Speaking for myself and every one seated on this side of the House, we condemn that outrage in unequivocal language and extend our sympathy and our congratulations to His Excellency the Governor for his providential escape. We do not sympathise with the terrorists; and even a class of people who according to Anglo-Indian newspapers and European non-official Members in this House are supposed to have been sympathetic to the terrorist movement, even that section has in strong and unequivocal language condemned this outrage, thereby showing that the insinuations and suggestions levelled against them in and outside this House have been untrue, unreasonable and unjust. The *Liberty* of Calcutta, which is a leading Congress organ, commenting on this outrage under the heading "A horrible outrage" says, "The Senate Hall of the University of Calcutta has been desecrated". It is a Congress paper, and in view of the statements made by the Honourable the European Members in this House, I think it is just as well that I should place on record here the opinion of a class of people who have been grossly and repeatedly misrepresented on the floor of the House.

Sir, the *Liberty* of Calcutta goes on to say:

"While His Excellency Sir Stanley Jackson, the Chancellor of the University, was delivering the Convocation address at the Senate Hall, he was shot at by a woman graduate. Fortunately, the assailant missed her aim and His Excellency escaped unhurt. The incident will send a thrill of horror over the whole country. It received horrible prominence from the fact that the assailant was of the fair sex, and the horror and indignation will be the greater on that account. Violence retards the pace of constitutional development. Every single act of revolutionary terrorism strengthens the hands of the Diehard opposition. Whether on ethical grounds or from the point of view of expediency, revolutionary terrorism and violence stand condemned."

I need not read more from that newspaper, but the whole article is written in that strain without a single qualification. Another Congress organ, Sir, the *Advance* of Calcutta, whose inspirer was arrested before his landing in Bombay, says:

"We are deeply aggrieved at the dastardly attempt made yesterday on Sir Stanley Jackson while he was delivering his Convocation address in the Senate House, and when we say this we represent the voice of the whole of Bengal. It was a senseless act and a heinous and cowardly crime,"

and so on and so forth.

Sir, I need not multiply quotations. Having made the position of every section of the Indian public, be they representatives of the Left Wing of Congress or the Right Wing of the Congress, having made our own position clear in regard to these outrages with which no constitutionalist or for that matter civil disobedience enthusiasts can have any sympathy, I should like to put this proposition before this House, whether the writings I have referred to are an abetment and encouragement of revolutionary criminality in Bengal or calculated to abate the tendencies of people towards revolutionary crime.

Sir, the very simple fact that, since the introduction on the Statute-book of the Criminal Law Amendment Act terrorist crimes have not decreased in number shows that there would be no necessity for us to supplement the Criminal Law Amendment Act. We had, Sir, Sir Muhammad Yakub and Sir Abdulla Suhrawardy, in language much stronger than the language which we are accustomed to hear—language which was quoted by one of them a member of one of the committees to which both the gentlemen have the honour to belong and this was placed on record—repudiating this Bill; and both these two eminent gentlemen were subsequently knighted, presumably for the speeches that they delivered on the floor of this House, and I do not think therefore it is necessary for us to condemn it sufficiently from this side of the House.

My strongest condemnation of this proposition is based upon the opinion of the Assam Government, expressed over the signature of none other than that of the Chief Whip of the Government in this House, and that opinion is sufficient to put one on his guard against giving any kind of support or sympathy to the Honourable the Home Member so far as this particular Bill is concerned. This, Sir, is what the Assam Government have stated in this matter. I would ordinarily not have taken notice of the opinion of backward Assam but for the fact that this opinion is shared by an eminent personage, none other than Mr. Cosgrave, who is not only the Chief Secretary to the Government of Assam but is also the Chief Whip of the Government of India in this House. To begin with, this is what he says:

"As regards the practical application of the Bill if passed, His Excellency in Council, while realizing the necessity of reciprocity in the matter of the transfer of prisoners from one province to another, anticipates difficulties in the matter of accommodating detenus in the jails of his province."

Therefore even the Assam Government do not accept the very kindly invitation of the Honourable the Home Member. The Assam Government are in the same boat with other Provincial Governments as a result of which the Honourable the Home Member, Sir, had to invoke the sympathy of Diwan Bahadur Harbilas Sarda by making his own territory the dumping ground of unwanted detenus. Sir, Mr. Cosgrave on behalf of the Assam Government, goes on to say:

"The latter is a long way below the standard prevailing in the other provinces" (that is, his own provincial jail) "and it would not be possible to guarantee the safe custody of dangerous or desperate individuals."

[Mr. C. S. Ranga Iyer.]

Sir, I do not for a moment concede that these individuals are either "dangerous" or "desperate". I do not accept either the opinion of the Honourable the Home Member in this matter or of the Chief Whip of the Government. Those who are not proved to be dangerous, are not dangerous in the eye of the law. Those who are not proved to be desperate, are not desperate in the eye of the law, and we are dealing with people who are not criminals but detenus, men who have not been proved to be guilty in a court of law but are detained, the same class of men whom you put under Regulation III of 1818. And now by the amendment that the Honourable the Home Member wants to bring in he wants the advantages of Regulation III of 1818 for the purposes of the Criminal Law Amendment Act, because under the latter Act, without the barring of the *Habeas Corpus*, it will not be possible for the Government of Bengal to send down their detenus to any province they like, whereas under Regulation III of 1818 the Government of India have the power to send down their detenus to any uncomfortable or uncongenial place they choose, to expose them to conditions and disabilities different from those to which they are accustomed to in their own province and which are unknown to the province in which they are to be detained. This was the point that Sir Muhammad Yakub made with his usual feeling, and in feeling terms. He spoke of climatic conditions, he spoke of food considerations and he spoke of various other matters in regard to transferring prisoners from one province to another. I will not be a party, Sir, to giving the Honourable the Home Member the permission that he seeks for introducing into this Criminal Law Amendment the powers of Regulation III of 1818 and my reason for doing so is very simple. Time and again this House has thrown out Regulation III of 1818, and we denounced in Resolutions that primitive Regulation which Lord Morley described as a 19th century rusty weapon: and now we refuse to give the Government of India the right that they have under Regulation III of 1818, and we would ask them, if they so choose, not to give the advantage existing under the Regulation to this particular amendment but, if they have the courage—I do not deny they have the courage—if they have any desire to treat them as Regulation prisoners, very well let them do so by proceeding against them under that Regulation instead of taking under this Bill the advantage of that Regulation. Now I shall revert to Mr. Cosgrave's opinion. This is what he says:

> "I am to state that in the opinion of His Excellency in Council the proper place for such desperate terrorists" (an objectionable phrase as I shall presently prove for detenus) "as cannot be kept in their own province is the Andaman Islands."

That phrase is objectionable because there is no proof before the country, there is no proof in any court of law that they are terrorists; and unless I know that a man is a terrorist or a woman is a terrorist and is proved to be a terrorist, I cannot accept the police documents which are dead documents. Every document which is not scrutinized and examined in a court of law is a dead document. Government by Ordinances is as mad as it is bad. The counter-terrorism of the Government is as bad as the terrorism of the terrorists. Administration through Ordinances which are going to be applied even to the speeches delivered on the floor of this House, unless I hear the Honourable the Law Member pronounce to the contrary, is one form of terrorism. The other form of terrorism is the thing that we have been denouncing from this side of the House just as we have been repudiating the administration through Ordinances. Sir, the Honourable the Chief Whip of the Government has had the audacity to say that these men should be transported to the Andamans, men who have not been proved to be guilty. Bengal, they think, is a revolutionary province and in Bengal there are objectionable Congress people, inconvenient Congress people, the class of people to which the Editor of the *Liberty* of Calcutta belongs and to which the Editor of the *Advance* of Calcutta belongs, people who have condemned openly and strongly the revolutionary terrorists' policy. If an opportunity were given to the detenus to condemn terrorism, many of them would come forward and condemn it. They have been put in prison and have been denied their liberty because a few policemen of Calcutta are panic-stricken. I know Calcutta is in a difficult position. I know there is revolutionary terrorism in Bengal but the cure for that terrorism is not to get hold of anybody and everybody you suspect and declare them terrorists and send them to the Andamans. If the police have got evidence against these people, why should they not produce it before a court of law? Any evidence that is not tested before a court of law is no evidence at all. Why should they not produce evidence even before the Ordinance courts? They proceed against these people and then they are unwilling to test the evidence. Unless they do so, I am perfectly justified in saying from this side of the House that their pretensions are hollow, because we do not accept the words of the police or the words of the representative of the police on the floor of this House, namely, the Home Member. He is pleading for people and he is talking about documents which he may have seen or may not have seen but which have not been produced before this House, which we have not had the opportunity to see, which no responsible body in India has had the opportunity to see, not even select men from this side of the House such as the Raja Sahib of Kollengade, who cannot be accused of revolutionary tendencies, or Sir Abdur Rahim, who was at one time one of the Executive Councillors of the Bengal Government or my friend Sir Hari Singh Gour, whose knowledge of the law is supreme in and outside this House. If three of these gentlemen were shown the kind of evidence that the Government have got before them, then it would have been possible for Honourable Members on this side of the House to give the power that the Honourable the Home Member seeks. But we cannot give that power to him because Mr. Cosgrave in his capacity as Chief Secretary to the Government of Assam describes them as desperate terrorists and says that they should be thrown away into the Andamans. He might as well have said that they should be drowned in the Bay of Bengal. I am really surprised at his moderation. I think he would have liked to do that very much. He might have said that they should be drowned in the big river near his own place of residence, namely, the Brahamputra. But we are here as the defenders of the rights of the public, and men belonging to the public who are very inconvenient to the police as well as to the Government, and who have been given the names of detenus and thrown into the vaults of prisons. They are now to be transferred from Bengal to Ajmer-Merwara. I say that these detenus are innocent because it is an elementary principle of English jurisprudence that every man is innocent who is not proved to be guilty, and until these people are proved to be guilty, no matter whether they are detenus under Regulation III of 1818 or detenus under the Criminal Law Amendment Act, law will treat them as absolutely innocent and the contrary view of the Honourable the Home Member or of any other official in and outside this House is absolutely worthless from the legal or for that matter from the moral point of view.

[Mr. C. S. Ranga Iyer.]

Sir, they are punishing not only the detenus but they are also punishing their relations. Supposing I am living in Bengal and a relation of mine is detained in Ajmer-Merwara, what happens? Supposing his sister, his wife and his children have got to go and see him. Has the Honourable the Home Member had the ordinary courtesy to provide for the travelling allowance of these people? I do not find such a provision in this Bill. There are people amongst these detenus who belong to respectable families, men belonging to rich as well as poor families. Will their relatives be provided with travelling allowances? Here is a Government which with its usual callousness where matters affecting the detenus are concerned is even unsympathetic towards the relations of these people. Here is a Government which comes forward and punishes their relations by transferring their kith and kin to a distant place and is not courteous enough to provide them with travelling allowance. I need not dilate on the other aspects regarding food and climate, which have already been touched upon by other speakers from this side of the House. I do not want to repeat their arguments but I would request the Honourable the Law Member to take out my name from the Select Committee, as I do not agree to the principle of this Bill.

Mr. B. Das (Orissa Division: Non-Muhammadan): Sir, I know that the Government of Bengal is panic-stricken. I know that the European community in Calcutta is panic-stricken and I know, too, that the European community of Calcutta wanted to organise a Black and Tan organisation to terrorise the loyalists belonging to the Indian public of Bengal. But I do not like that the Government of India should also be affected by the panicky attitude of the Government of Bengal and the European element of Bengal and should try to force down our throats a legislative measure which is against all sound principles of democracy. Sir, my friend, Mr. Ranga Iyer, and some other Honourable Members the other day stated that even the principle of this Bengal Criminal Amendment Act stinks in the nostrils of that great loyalist,I mean, Sir Muhammad Yakub. If it stinks in his nostrils, it can be easily imagined how it will stink in the nostrils of 34 crores of people of India *minus* Sir Muhammad Yakub because there is no other super-loyalist than Sir Muhammad Yakub. I also regret, Sir, and I am glad to find that my Honourable friend Mr. Ranga Iyer has also expressed the regret of this side of the House on the attempt on the life of the Governor of Bengal. But that is no justification for the panicky attitude of the Government of Bengal or of the Honourable the Home Member. I do not wish to go as far as my friend, Mr. Ranga Iyer, has gone, namely, that I will oppose this measure going to the Select Committee. I would certainly like to oppose this measure, but it will have no beneficial result, because I know that Regulation III of 1818 does not give a vestige of trial to those who are arrested under that Regulation. If we throw out this little Bill which has come before us, then everybody who is arrested under Regulation III will be deported to some unknown place. They will be deported into that barbarized country which my friend the Diwan Bahadur said was the Andamans, namely, Ajmer-Merwara. My friend, Mr. Neogy, will touch upon the legal aspects of the Bill and show whether there is any trial. As far as I have been able to understand, the papers will be placed before some Judges and they will examine them. Whether the examination will be just and impartial, I am unable to say. But I call it sheer injustice on the part

of the Government to transfer persons from one province to another, especially to the barbarized land of my friend, Diwan Bahadur Harbilas Sarda. I know that in that clime where he lives, the country is a desert and people live only on *bhuttas*. They do not eat vegetables, nor fish nor meat and the Bengalis who come from the Eastern part of India are accustomed to luxurious food. I cannot understand how they can stand the climate of that country where the rains are very scarce, where the *loo* wind blows for nearly 6 months, and where there is no fish and no vegetables. If the Government want to punish these Bengalis, is it not enough that they are arrested under the Ordinances? The Government want to deprive them even of their proper nourishment. I hold a letter from a lady whose relation has been arrested under Regulation III of 1818 and has been transferred to Cannanore Jail in Madras. Although the climate of Madras is somewhat akin to the climate of Bengal, yet the dietary system is quite different.

Mr. R. K. Shanmukham Chetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): The diet is very good.

Mr. B. Das: My Honourable friend the Deputy President says the dietary system is very good. But what I understand from friends, I find that the Madras diet is not the Deputy President's diet, whose hospitality I have enjoyed many a time. The Madras diet consists of tamarind water and chillies. I cannot understand how a gentleman of Bengal will stand the tamarind water and chillies in a Madras jail. This gentleman Mr. Romesh Chandar Acharya has his legs paralysed and he walks a little with a crutch. I do not know whether the Bengal Government consulted the Honourable the Home Member before transferring this gentleman to the Cannanore Jail. This gentleman cannot speak one word of Kanarese, or Malayalam, which is the language of the cooks in that jail. While in Calcutta, owing to illness this gentleman was taking only fruit diet. Now he is suffering terribly in the Madras Jail. I would suggest to the Honourable the Home Member that in future if he wants to transfer a Bengali prisoner outside Bengal, he should arrest a Bengali cook under Regulation III of 1818 and send that cook also with the prisoner so that he might cook his food. My Honourable friend Mr. S. C. Mitra suffered terribly when he was in Mandalay Jail for want of proper food. This lady, the sister of the detenu, says her brother is suffering much for want of proper food and because he does not know any of the Dravidian languages he cannot instruct the cook how to cook the Bengali system of diet. This is only one of the many instances of how the detenus are suffering. If necessary, I can lay on the table of the House this letter, and the Honourable the Law Member who is a Bengali can translate it into English. If this is the fate of the detenu in the more flourishing South, what will happen when these detenus go to my friend, the Diwan Bahadur's country where there is only a rainfall of 4 inches throughout the year, where the hot winds blow half the year, and where they never eat vegetables and where there are no signs of fish or meat.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): What is there left?

Mr. B. Das: Only *bhuttas* are left. I have very strong objections to the Bengali prisoners being transferred to that part of the country which is uninhabitable to the people of Bengal and where as my Honourable

[Mr. B. Das.]

friend, Mr. Ranga Iyer, pointed out there will be difficulty regarding interviews. I endorse every remark of his and on that ground the Bengali detenus should not be transferred to Ajmer-Merwara. If I am allowed to make a suggestion, I would suggest the Government of India should finance the Government of Bengal to keep these detenus somewhere near Darjeeling where all these detenus could live in a cool climate under the direct charge of the Members of the Executive Council and the Inspector General of Police. That will be the best solution.

How long can Government go on governing this country by Ordinances or by legislative enactments which no civilised country would like to sanction? Government know why and how these patriots become detenus. I would ask every Member on the Treasury Benches to read the recently published book . . . . .

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): Send them complimentary copies.

Mr. B. Das: If Government wants complimentary copies, I suggest they ask the ex-Director of Public Information, Mr. J. Coatman, to send them from London. This book is entitled "A word to Gandhi, the Lesson of Ireland" written by Brigadier General Crozier. This gentleman was the official head of the Black and Tan methods in Ireland. This gentleman was sent as the head of the Irish auxiliary forces in 1920.

Mr. President: I should like to know how long the Honourable Member is likely to take?

Mr. B. Das: I will take three-quarters of an hour, Sir.

Mr. President: Today being Friday, the House will adjourn till 2-30.

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 in the Chair.

Mr. B. Das: Sir, before the lunch recess, I was telling the House that the methods adopted by the Government in having this Bengal Criminal Law Amendment Act or these Ordinances will not undo the wrongs that the Government are doing, and will not bring peace to the country. Similar methods were adopted in Ireland; those methods failed there and I was going to illustrate and cite cases from an experienced official who was a General of the Indian Army and who went to Ireland as the head of the Royal Irish Constabulary and was forced to be the leader of the Black and Tan policy which the Irish police adopted in Ireland; the conclusion he reached was quite different and his conclusion was so salutary that I will quote his conclusion and certain other passages in order to enlighten the Treasury Benches. He reached the following final conclusion:

"Having seen a great deal of force in use, having applied that force for over thirty years, having experienced the utter failure of force, I must needs look for other weapons with which *to achieve the object—the welfare of mankind.*"

Here I am not only concerned with the "welfare of mankind". I am also concerned with the welfare of Indians and specially of my brethren in Bengal. It is the misfortune of nations that whenever they are ruled by a bureaucratic Government, their patriotism and their nationalism are challenged by that bureaucratic Government and they are incarcerated by means of Ordinances and Acts such as the present one is. In Ireland the same thing happened. I was saying that the British Government, through the then Irish Government, adopted the Black and Tan method:

"The Bland-and-Tans, a nickname given to the new English recruits of the old Royal Irish Constabulary on account of their green caps and khaki clothing and their similarity to the famous pack of hounds of that name, noted for its ability to hunt and *kill anything*, and later extended to all the police in Ireland outside Ulster, began to submerge the military in September, 1920, and went from bad to worse, till they kicked the dust of Ireland off their boots for ever in 1922, on account of the futility of the whole regime."

And what methods did they adopt?

"When it is remembered that all the atrocities in Ireland, committed by servants of the Crown, and all the murders, burglaries, thefts, illegal imprisonments, cruelties, beatings, burnings, and perjuries carried out in the name of law and order, happened within less than twelve hours' train and steamer journey of the Houses of Parliament, one can but hope that in these difficult days, India and Palestine, far removed from the heart of the Empire and made up of peoples of different races, may be more fortunate!"

I want the Government to take note of these words and ask them whether similar things are not happening in India. And what are those methods?

"Perjury, false witness, concoction of evidence, unjust accusation, suppression of the truth, bribery and corruption—all made possible by the precious Restoration of Order Act" (*here in India, by the Bengal Criminal Law Amendment Act*)—"fouled the path of the soldiers, dealt a heavy blow to British honour and actually placed the military command and the Judge Advocate General's Department under the lash of a system which had sent Colonel Smyth to his death, caused the Lord Mayor of Cork to be murdered in front of his wife by the British guardians of the law, and, on that account alone, brought about dozens of other murders and reprisals."

Sir, I want to ask the House to study and see whether the underlying principles of this Bengal Criminal Law Amendment Act and its successors and allies—I mean the Ordinances, Regulation III and others—do not perpetuate and perpetrate similar acts of violence as happened in Ireland in 1920, 1921 and 1922. And who are those who are doing these things? They are the officials. They are not my words but the words of a British General who served in India—General Crozier:

"From what I know of many anglo-Indians,—my grandfather and father served the Crown in the land of the rupee for many years,—their sloppy mentality, their lack of vision, their misunderstanding of the words "loyalty" and "patriotism", their arrogance and uselessness if unattended by henchmen, their lack of general knowledge and education, their constant quest for pensions and preferment, their lack of ability to discern the difference between right and wrong, if crossed by expediency, and their idea that India was originally made by God in order that Englishmen should find work and good pay there at the expense of the Indians, I believe the official class in India would find little difficulty in subscribing to a similar policy to that put in practice in Ireland. That practice, resulting in so dismal a failure, was sponsored by such men as Mr. Churchill, Mr. Lloyd George and Sir Austen Chamberlain, and frustrated by such men as the late Lord Oxford, Sir John Simon and Captain Wedgwood Benn. . . . . "

Mr. President (The Honourable Sir Ibrahim Rahimtoola): May I ask the Honourable Member what relevancy all this has to the issue now before the House? The issue before the House is simply this, that the

[Mr. President.]

Criminal Law Amendment Act should be supplemented by authorising Government to transfer to other provinces detenus who are now restricted to Bengal. On that issue the Honourable Member will be perfectly relevant in making as long a speech as he likes. But this is not the occasion when the Honourable Member can go into all the matters with which he has been dealing for some time.

Mr. K. C. Neogy (Dacca Division: Non-Muhammadan Rural): May I respectfully remind you that there is a very serious issue involved in this Bill, and that relates to the suspension of *Habeas Corpus*.

Mr. President: Even then how is all this which the Honourable Member has been reading relevant to that issue? I do not want to interrupt the Honourable Member. I wish that he would confine himself to the issue now before the House.

Mr. B. Das: As far as I understood, the effects of the Bengal Criminal Law Amendment Act and other similar Ordinances as they are practised are seen in Chittagong and Hijli and they have aroused terror throughout the country. The people are terrorised not only in Bengal, but outside Bengal also, and I thought that on this occasion while I criticise the underlying principle of the Bengal Criminal Law Amendment Act, I should also give some advice to the Treasury Benches so that they can retrace their steps, and instead of bringing this Bill on the floor of this House, they may suspend these Bills and those Ordinances and bring peace in the country.

Mr. President: The Honourable Member has been a Member of the Assembly for many years, and he ought to know what is relevant and what is not relevant, and I hope the Honourable Member will now confine himself strictly to the relevant aspects of the issue now before the House.

Mr. B. Das: I bow to your advice, Sir, and I will quote only one of the sufficiently relevant passages as will suit the present occasion. A minute ago I referred to the case of Chittagong and said that there the people are suffering from this Bengal Criminal Law Amendment Act and other similar Acts and Ordinances. Now, when my friend, Mr. S. C. Mitra, referred to the terrorism in Chittagong, my friend, Mr. French, challenged him, but may I ask my friend, Mr. French, or the Honourable the Home Member as to why the Bengal Government have suppressed the publication of the Nelson Report about Chittagong repression? Mr. Nelson is the Divisional Commissioner of Bengal, and why is it that his Report on the happenings at Chittagong has not been published?

Then, Sir, under this Bengal Criminal Law Amendment Act or under Regulation III of 1818 detenus are sent to places outside Bengal, it may be to Hijli or to my friend the Diwan Bahadur's country, but what happened? We moved on the floor of the House an adjournment over the Hijli incident, and Government say that whatever they do they do it rightly. The Bengal Government have issued a communiqué which we challenged on the floor of this House, and when evidence was taken, Commandant Baker, who was in charge of Hijli Camp, said that

he was no party to the communiqué, and I quote from the evidence published in the paper—the *Liberty* of Calcutta. "Hijli Inquiry. Startling Evidence of Commandant." I will just quote only one small passage which will show how the Bengal Government went against the Commandant and issued a false communiqué. "Witness confessed"—that is Commandant Baker—"having admitted in writing to detenu Bhibhuti Babu that the first 'communiqué' on the camp incident issued by Government on September 17th was *false*. Witness further admitted that, although he was the man on the spot and the sole responsible officer of the camp, his version was not taken into consideration in drawing up that 'communiqué'." Sir, these things have happened. These things will recur again. Government have no control as to how these Ordinances are working in the provinces and provincial Governments rely more on local officials and police whereby absolute terrorism prevails in the country side.

I want to tell my friend the Honourable the Home Member that he is not omniscient nor omnipotent. He gives too much power to the Government of Bengal and other Governments. Are they going to administer the law properly? You may say that the reports quoted by my friend Mr. Mitra are a dangerous version of the actual happenings. You may even deport him under the Criminal Law Amendment Act and send him to Ajmer. But is the policy you are pursuing the right policy? If the Bill goes to the Select Committee and with your henchmen there you pass it, you can send my friend Mr. Mitra from Mymensingh to Ajmer, but is that the correct policy to be pursued? There is the other policy which you can with great advantage follow, and that policy is contained in the book from which I was just quoting. I will now quote only one passage from it again so that my friend Sir James Crerar may come to the same view as the writer of this book, after his years of experience of repressive policy, has come to. This is what he says:

> "Had I known what I was in for in 1920, when I consented to go to Ireland to take part in suppressing the Irish Sinn Fein revolution, I should, in the words of Mr. Baldwin never have touched it 'with the end of a barge pole'. One lives and learns."

My friend Sir James Crerar will probably retire shortly and will go and live in his misty land,—that mystic land of Scotland where the Highlands, with its mountains, lakes, snows, and mist, will bring one in communion with God,—I know he is a great scholar too,—while he will be reading his Plato, his Iliads and his Greek prose and poetry and while he will be very near in communion with his God, I hope my friend will not regret, as this General Crozier regretted, and would not say that, "What might have been, what I could have done had I been again the Home Member of India". The Home Member of India means the Government of India, the Viceroy of India, everything that is in India for law and order is concentrated in Sir James Crerar. I hope he will not regret later, "I would have ruled India better; I would have advised the Cabinet in India, the Viceroy in India and I would have legislated for the good of India so that there would have been peace; and not repression in the country, and wholesale arrests and millions of people being sent to jail and in the end, permanent severance between England and India".

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Sir, before I deal with the issue before the House, I have got to say something with reference to what was said by the Honourable the nominated Member from Bihar, Mr. Sarma, with reference to myself personally in connection with this debate. My attention was drawn to what he said

[Sir Abdur Rahim.]

after the debate was over, and I was not present in the House when he made his observations. Sir, he was good enough to allege that my administration of the Jail Department during the time I was Executive Councillor of the Government of Bengal was a failure. Well, so far as that is concerned, it is not for me to say whether it was a failure or a success; but then he went on to say that I was asked by the Governor of Bengal on the telephone to resign the portfolio. I wish to say this to the House that this is an absolute falsehood. I was not asked to resign my appointment. I myself gave up the portfolio because the Cabinet of Bengal did not agree with my policy, and I refused to have any responsibility in connection with the jail administration of Bengal unless my policy was substantially agreed to. Sir, I know it would not be right for me to disclose what happened in the Government of Bengal, but if the Government of India or those who represent the Government of India in this House permit their nominated Members, or Members who take their inspiration from them, to make allusions to what happened in the Bengal Government when I was an Executive Councillor there, then in self-defence I shall be obliged to disclose what actually happened. ("Hear, hear" *from the Nationalist and Independent Benches.*) I can say this, that the policy I pursued in Bengal during the time I was in charge of jails has proved to be the right policy, and if a different policy has to be pursued now since I left the Government of Bengal, it cannot be put down to me; it must be put down to other persons. Again, allusion has been permitted in this House from time to time to what the Government of Bengal did during the time that I was an Executive Councillor there. I am not here to defend the Government of Bengal's actions at any period, and I should be usurping the functions which I believe are discharged by the Honourable Sir James Crerar if I were to do so, and I am sure he would not share the responsibility in this connection with any non-official Member of this House. Therefore, I say that for any Honourable Member to try and fasten me with responsibility, personal responsibility, for what happened in the Government Bengal during the period I was there—I say it is not a fair thing, and if these allusions are allowed, then in that case I should be obliged to disclose the part I played in those proceedings. ("Hear, hear" *from the Nationalist and Independent Benches.*) As regards the Honourable Member, who I understand has been nominated for some reason or other as a Member of this House—I am told that he represents Bihar which I thought was amply represented by the Honourable Members who have been elected by the people of Bihar—but whatever he may represent, this much is perfectly clear to the House that he does not represent the opinions, the views or the wishes of the people of this country. ("Hear, hear" *from Nationalist and Independent Benches.*) He has also said that he was surprised to read certain speeches of mine when I was in the Government of Bengal and to compare them with the speeches that I have been delivering here. He did not quote anything that I said from which it might be said that I was then supporting a policy which I do not support now, or that I was opposing a policy which I supported then. If he had quoted any passage from any speech of mine which showed that I took a different view on certain policies on a previous occasion, then I would have been in a position to consider whether I had changed my policy in any respect, or if I had changed my policy, I could have given the House my reasons why I changed my view. Sir, I do hope that in future the Government will see that their nominees do not make allusions to what happened in the Government of Bengal in my time, or I shall be obliged to disclose what did happen in the Cabinet of Bengal when I was an Executive Councillor.

As regards the motion before the House, my Honourable friend, Mr. Ranga Iyer, whom I am glad to find sitting so close to us, has asked me to speak out my views in this matter. When Diwan Bahadur A Ramaswami Mudaliar spoke on the last occasion, he said that he was not going to oppose the motion before the House for reference to Select Committee. I find that Mr. Ranga Iyer takes a different view, but in his own party there is apparently no agreement, and so far as we are concerned, we do not intend to oppose the reference to Select Committee, and for this reason.

On the last occasion when the Bill was before the House after introduction, we, members of the Independent Party, insisted on the Bill being circulated for ascertaining public opinion, and that has been done, and we have now the opinions of the different Governments and others before us. The opinion that has been elicited so far seems to be very much divided, and in a matter like this when there is a division of opinion, I consider that to be in itself a good ground that the matter should go to a Select Committee. If there had been a considerable preponderance of opinion against the Bill as it stands, then in that case it might have been said, and I think said very rightly, that it ought not to go to the Select Committee at all. But there is a division of opinion; there is a certain body of opinion in favour of the Bill; and in those circumstances we do not feel that we should be justified in opposing a reference to Select Committee.

The only question that is really involved is this,—the administrative convenience of the Government of Bengal, and the comfort and well-being of the detenus. So far as the convenience of the Government of Bengal is concerned, the Government of Bengal seems to be very strong, that for the purpose of proper administration of the jails in Bengal, they should have the power to transfer detenus to some other place—at least some of the detenus. That is certainly the attitude taken up by the Government of Bengal. But the difficulty still remains, whether the other Governments will welcome these detenus and will be able to look after them properly, and on that, as I have said, there is a division of opinion. Then there is the very important question as regards the well-being and comfort of those who are detained, who have been deprived of their liberty not by any conviction of a court obtained after a fair trial, but because they are under suspicion, because they are suspected to be participants in certain forms of crime. So far as that is concerned, it is a matter which can be very carefully considered by the Select Committee, and I do hope that the Honourable the Home Member will give every consideration to suggestions that may be made in the Select Committee as to what should be done, so that detenus do not suffer unduly by their being transferred to a place other than their native land. I do not think that it would be impossible to devise means by which their health can be safeguarded and they should live in the place where they are kept with a reasonable amount of comfort. I do not know what the exact proposal of the Government is, whether all these detenus should be concentrated in one place, Ajmere, to which my friend Mr. Sarda

3 P. M.

[Sir Abdur Rahim.]

strongly objects, but whatever their proposal is, if as a matter of fact Ajmere is chosen, certainly it is not a place inferior to any place in India from the point of view of climate, and reasonable arrangements may be made to see that they do not unduly suffer in health. If on the other hand Government are not prepared to accept reasonable proposals by which the health and well-being of these detenus would be properly safeguarded, then we shall be at liberty to reject the Bill, if we find it necessary to do so.

Mr. C. S. Ranga Iyer: On a point of personal explanation, Sir. The Honourable the Leader of the Independent Party just now referred to my own position in regard to this motion. To avoid any misunderstanding in regard to it, I have only to say that the position of my party is exactly the same as the position of his party and my position in this matter is exactly the same as his position, except that I could not serve on the Select Committee as I did not accept the principle of the Bill. Owing to the differences of opinion existing on my side, I did not oppose the consideration motion, and when my name was put on the Select Committee my leader obviously presumed that I might serve on it. Therefore I cast no reflection on my leader or on the Home Member, though I was not quite aware of whether I should serve on it or not.

Mr. C. C. Biswas (Calcutta: Non-Muhammadan Urban): We on this side of the House have so often and in such unmistakable terms expressed our dislike of odious legislation of the kind represented by Regulation III of 1818 or of similar measures that I should have thought, nothing would have been lost, if in the discussion of the present motion we attempted to restrict ourselves closely to the terms of that motion. In the flood of eloquent denunciation which flowed from my friend Mr. Ranga Iyer, there was just a danger of some of the salient points being swept away. It is just as well that we take note of them. Sir, on abstract grounds probably there would be little disagreement amongst Members of this House, to whichever section they might belong, as regards the essential soundness of the position which my friend had taken up. Unfortunately, however, we have got to face the realities of the situation, and coming from Bengal, fresh from the latest outrage of which I was an eye-witness, I cannot shut my eyes to the situation which is developing from day to day in my province. It is true, as my friend Mr. Ranga Iyer said, that Congress leaders and Congress organs have denounced these terrorist crimes in the strongest terms, but I feel, and I speak more in sorrow than in anger, that the time has passed when mere denunciation of such crimes is enough. In Bengal, Sir, the time has come when I feel that it is up to the leaders of public opinion there to exert themselves a little more actively in order to mobilise and organise that opinion. I am not here to defend the proceedings either of the Government of India or of the Government of Bengal, but in the public interest, in the interest of the community, it is just as well that we talked in more restrained language. There are seasons and seasons for saying and doing many things. Well, I got into touch with some of my Indian friends who have the moulding of public opinion in their hands. I asked them more than once, "Why it was that after such outrages as had disgraced the fair name of my province from time to time, Indian leaders did not call public meetings themselves for the purpose of giving expression to their feelings of horror and indignation. Why was there no meeting of Indians in Calcutta?".

Mr. S. G. Jog (Berar Representative): Public meetings are not allowed nowadays.

Mr. C. C. Biswas: My friend says that public meetings are not allowed now. I am speaking of days before the Ordinances came. I may remind my friend that the Ordinances came as a reply to the terrorists. The outrages were there from before the Ordinances. The reply to the question I put to my friends was perfectly frank and straightforward. It was this, that they were afraid of calling such meetings, because they feared that if they called such meetings, they would not be able to control them. What does that show?

Mr. K. Ahmed: What bearing has this got on the present motion?

Mr. C. C. Biswas: My friend asks what bearing this has got on the present motion. I was just trying to point out that the situation in Bengal was such that it would not do for us to proceed on mere *a priori* or abstract grounds. We have got to face facts, and after all, we are the people who stand to suffer most. It is not the Government; it is the people who would suffer as the result of these terrorist outrages. I do not delude myself for one moment by thinking that by passing these Ordinances or repressive measures, Government would or could put an end to these outrages. Nothing of the kind. On the other hand, Government ought to know, and it is the duty of every one of us to tell them plainly that there is a deep feeling of sullen discontent and resentment at the enactment of these measures. There is deep dissatisfaction at the proceedings of the Government in many matters. Take for instance, the latest action of the Government of Bengal in dealing with the Chittagong outrages. The situation today has been produced not merely by the terrorists. It has been produced equally by the Government by reason of the policy they have been following. All the same, Sir, what I wish the House to realise is this. There are the facts,—staring you in the face. There is imminent danger to the State, to the community, and to us all. What is to be our attitude at this juncture? Should we go on in the way in which we might or ought to, in ordinary circumstances and ordinary times? Or should we not try and pause and ponder over the situation and decide upon a course of action, which might not probably be justified on *a priori* grounds, but which the clear dictates of expediency would suggest? Sir, that is why I say, in discussing this matter it would have been better, if we could avoid raising the general questions of policy underlying measures like the State Prisoners' Regulation or the Ordinances.

Sir, so far as this Bill is concerned, the fact should not be overlooked that we are merely called upon here to supplement a piece of legislation already passed by the Bengal Legislative Council. Questions of policy were more appropriate, when and where the parent Bill was being discussed. Sir, as the Statement of Objects and Reasons points out, it was in 1925 that the Bengal Government found it necessary for the first time to enact this Bengal Criminal Law Amendment Act. The life of that measure was five years. On that occasion too, the Government of Bengal wanted to be armed with the power to remove detenus to provinces outside Bengal. That is why they approached the Government of India, and a Bill was placed before this House in 1925 very similar to the one now before us. As Sir Hari Singh Gour reminded the House, that supplementary Bill was thrown out by this House in 1925 by an overwhelming majority, and it had to be certified by the Governor General. After the

[Mr. C. C. Biswas.]

lapse of five years, what did the Government of Bengal do? They thought that it was not necessary to enact the whole of that measure again. They passed an Act in March, 1930, which reproduced only part of the old Act of 1925. In other words, they merely retained the power to appoint special tribunals for the trial of certain kinds of offences. Although the Bengal Act was limited to five years, so far as the Supplementary Act of 1925, which was certified by the Governor General, was concerned, there was no such limit. The result was that when the Bengal Council in March 1930 re-enacted part of the old Act of 1925, those provisions of the Supplementary Act of the Governor General which applied to the provisions which were re-enacted remained in force, *viz.*, the provisions which conferred the right of appeal to the High Court and required the confirmation of death sentences by the High Court. But as the other provisions of the Bengal Act of 1925 were not then re-enacted, the corresponding provisions of the Supplementary Act of 1925, that is to say, sections 4, 5 and 6 ceased to be in force. The position, then, is this, that in consequence of the fact that since then, in August 1930, the Bengal Government found it necessary, in view of a long list of new terrorist crimes in that province, to re-enact those provisions of the Bengal Act of 1925, which had been left over, this House is now invited to re-enact the corresponding provisions of the Supplementary Act. The power to arrest on suspicion is there already under the Bengal Act. We are not being invited to sanction such power. The responsibility for that has been taken by the Bengal Legislative Council. That being so, the question before us now is, whether or not we should give the further power to that Government which they once had for the purpose of removing some of the detenus to some other province. That is the only consideration; and, Sir, on that point, the only questions which seem to me to have any bearing are those of the conditions under which such transfers of detenus from Bengal to some other province can be effected. The question is this, whether or not we should require some assurance, either to be embodied in the Bill itself or in rules to be framed under the Bill, to ensure that where such detenus are removed from Bengal to another province, certain things should be done to reproduce as far as possible the conditions of detention in Bengal—conditions as regards food, health, comfort, and so on. As my Honourable friend, Sir Abdur Rahim, has said, we hope that when the Bill goes before the Select Committee, that Committee would try to insert some clause in the Bill which would make it obligatory on the Local Government to provide for these things, in other words, to minimise discomfort and risk to health as far as practicable. I say, as far as practicable, because so far as the climatic conditions go, nobody can control that. But subject to that, I say it should be possible to reproduce the conditions of detention in Bengal in the provinces to which these men may be removed. That seems, Sir, to be the only point, and I do not think the House would be justified in opposing reference of the Bill to a Select Committee.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I think we on this side of the House should plainly realize the implications of this Bill. Time and again we have protested against the repeal of the Habeas Corpus Act, which is the one guarantee against executive excesses. This Bill repeals the Habeas Corpus Act in respect of detenus. The second point that this House must visualize is this. Under the main Act enacted by the Government of Bengal for a period of

five years, the sentence of detention is inflicted without trial—it may be on mere suspicion, or it may be upon evidence which has not been sifted by a court of law. Now added to that sentence, this Bill adds the sentence of deportation. Let the House, then, clearly understand the full implications of this part of the Bill. Not merely will the detenus be deported, they will be bottled up in one place—it does not matter whether it is in Ajmer-Merwara or in any other part of British India. Therefore, Sir, knowing full well as I do the feeling of this House on such questions, we should have been perfectly justified, whatever may be the consequences, to oppose the motion brought forward by the Honourable the Home Member. But we have to take into account two facts, and those facts cannot be ignored. Terrorist crime in Bengal has been going up, and this House has now a fair insight of the coming constitution. I hope—and on this point I may be perhaps accused of being an incorrigible optimist—that the new constitution will not long be delayed in coming. Therefore, it may be that we may have to shoulder the responsibility which at present rests upon the Treasury Benches. These two considerations should make us pause before we resist the motion brought forward from the other side of the House. Galling as it is to our sense of freedom and fairplay, we cannot ignore the fact that we are not living in normal times. That being the situation, whatever may be our difference with the Executive Government, we have to assist them when we find that their demand is reasonable. This seems to be one of those occasions when we can conscientiously say that, as this measure is temporary and deals with a temporary evil, we are prepared to give you reasonable assistance. That being the position of this side of the House, we are not going to intervene in the further progress of this Bill, but at the same time we wish to tell the Honourable occupants of the Treasury Benches that whatever you do, whether for the purpose of laying terrorists by their heels or ruling the whole country by Ordinances, it is only a palliative and not a cure. The difficulties in the country and the growing discontent throughout the length and breadth of this country are due to the causes which you know too well and unless you hasten the pace of reforms, with all the assistance that we can give, you will find yourself landed in greater and greater difficulties. This is what we wish to remind you of and we do so with the full responsibility of voicing those who have sent us here. Honourable Members on this side of the House, it has been said, are not unanimous upon the main issue. I know the feeling of my people and I know the feeling of those who sit around me, and I am voicing their feeling when I say that, however reluctant they would be in ordinary times to strengthen your hands, they are prepared to waive their objections in view of the exceptional circumstances and the difficulties of the situation. At the same time, they want that when this provision emerges from the Select Committee, you will consider dispassionately, and, let us hope, with a certain feeling of generosity, that the removal of the detenus from Bengal does not add to their privations and sufferings more than you can help. That would give to all of us feeling of assurance that, though you are bureaucrats you have not ceased to be human and, though the Government of India is a machine, it is not wholly soulless. That is a charge that I may be permitted to make to you when you sit on the Select Committee. Mitigate their difficulties, assuage their feelings as far you possibly can consistently with the primary purpose you have in view of isolating them from their surroundings so as to restrict the limit of mischief that you apprehend. Sir, in asking you to do that, we on this side of the House are not asking too much.

[Sir Hari Singh Gour.]

Honourable Members on this side of the House have read extracts from speeches delivered by Members to the effect that the climate is not suitable, the food is not congenial and other discomforts to which Bengal detenus would be subjected in the arid climate of Ajmer. But if you are to transfer the Bengal detenus to the Government House in Calcutta itself and keep them there, there will be the feeling that they are prisoners and State prisoners. That feeling cannot be avoided. And when you take them away from the familiar scenes and familiar faces where they do not hear voice in which their mothers spoke, or hear the songs which their mothers sang nor hear the songs which their village folks sang, where they see strange faces and hear alien tongues, that, in itself, is a very great deprivation to people removed from one province to a wholly different and distant province. Remember that, and, having remembered that, when you sit on the Select Committee do not weigh your justice in golden scales but let these people feel that, while you are anxious to avoid the mischief, while you are circumscribing their liberties, you are, at the same time, not impervious to the appeals of humanity and compassion and that you will treat them as mere prisoners of State who have not yet been convicted of any crime. Sir, inspired by this hope and feeling this confidence, we, on this side of the House, have decided that we should not block the further progress of this Bill.

The Honourable Sir James Crerar (Home Member): Mr. President, the course of this debate, and more particularly the speeches, which we have heard from the last few speakers who have addressed the House to-day, have relieved me of any necessity which I might have felt otherwise of addressing the House in replying to the debate at any considerable length. I desire to say a few words only. I am very happy indeed to acknowledge the terms in which the Honourable the Leader of the Nationalist Party and the Honourable the Leader of the Independent Party have expressed their views on this occasion. I desire particularly to acknowledge the weighty and impressive words which fell from the Honourable Member from Bengal, Mr. Biswas. I desire to acknowledge the terms in which more than one Honourable Member has spoken of his feeling of horror at the recent murderous attempt upon the life of the Governor of Bengal. We all in this House join with them in gratitude for his providential escape. (Applause.) I should like to add this that we also join in gratitude and admiration for the prompt and courageous action of the Vice-Chancellor of the University, whose intervention in all likelihood may have been the means of preserving His Excellency's life. Now, Sir, I do not think that I need go at this late stage into any of the merits of the questions before the House. They have been elaborately examined and Sir Abdur Rahim very pointedly put the main question before the House. Are we to recognise the gravity of the situation in Bengal and are we to do our duty in our respective capacities with regard to the very strong representation made to us by the Government of Bengal? These arguments were to some extent elaborated and emphasized by the speech of the other Honourable gentleman from Bengal, Mr. Biswas, who gave to the House what I think was a very fair candid and lucid account of the issues as they present themselves to many. The greater part of his speech I can most cordially endorse. Honourable Members have given us a warning. They said, "Do not suppose that whatever measures you take in the way of extraordinary legislation, you are going effectually

to extirpate this trouble". That may be. But Honourable Members themselves will recognize that it does not afford us any reasonable ground for not taking such measures as we can take which may in some substantial degree alleviate the evil or assist those who are most immediately engaged in dealing with it. I recognize that very completely myself, but in expressing my recognition of it I desire very expressly to invite the attention of the House to the words on this point which fell from Mr. Biswas. Government no doubt have a very great responsibility in this matter. It is in some measure in discharge of that responsibility that I found it necessary to introduce this Bill. But the responsibility does rest in other quarters also. I will not elaborate this aspect of the question because it was put in very weighty and in very impressive terms by the Honourable gentleman who is really more competent to speak from that point of view than I am myself. My last concluding sentence is that while my appeal to the co-operation of this House has received this answer that they will agree to the reference of this Bill to the Select Committee, while I acknowledge that measure of co-operation, I trust that the House and I trust that the wider audience to whom those words were addressed will hear those words of wisdom and will act upon them. (Cheers.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Before I put the motion to the House, I should like to ask the Honourable Member in charge of the Bill whether he will accept the amendment, in view of the fact that Mr. Ranga Iyer has declined to serve and Mr. Amar Nath Dutt does not wish to serve. The amendment proposes to substitute the names of Sir Hari Singh Gour and Diwan Bahadur Harbilas Sarda in their place.

The Honourable Sir James Crerar: I accept.

Mr. President: The question is:

"That the Bill to supplement the Bengal Criminal Law Amendment Act, 1930, be referred to a Select Committee consisting of Sir Hari Singh Gour, Diwan Bahadur Harbilas Sarda, Mr. B. Sitaramaraju, Mr. Abdul Matin Chaudhury, Mr. Arthur Moore, Rao Bahadur S. R. Pandit, Mr. Muhammad Anwar-ul-Azim, Mr. R. S. Sarma and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four."

The motion was adopted.

THE INDIAN FINANCE (SUPPLEMENTARY AND EXTENDING) AMENDMENT BILL.

The Honourable Sir George Schuster (Finance Member): I beg to move that the Bill to amend the Indian Finance (Supplementary and Extending) Act, 1931, for a certain purpose, be taken into consideration. I do not think that I need detain the House at any very great length in explaining the machinery of this Bill. In introducing the Bill, I explained to the House that it had certain definite advantages in that it would simplify and cheapen the procedure of assessment. I also emphasized

[Sir George Schuster.]

that it was of a provisional nature and that we should test its working for a year and then consider the question of incorporating it permanently in the Income-tax law. I further emphasized that the procedure which could be utilized if this Bill is passed into law was of an optional nature, and that no assessee would be forced to submit to its provisions unless he himself desired to take advantage of them. I would just like to add that the procedure introduced by this Bill is identical with the summary procedure which formerly prevailed in 1918 when small incomes were also subjected to income-tax. We have re-introduced the provisions of section 30 of the Income-tax Act, 1918, with one exception only, or rather with one point of difference only. In the Act of 1918 an assessment demand notice could be taken to have been served on an assessee by publication without being personally served. In the present Bill we have provided for personal service since we recognise that publication is quite likely not to attract an assessee's attention. In other ways, we are planning procedure for the convenience of assessees, and I hope the House will recognise that this small measure is one in the public interests and also one which will operate for the convenience of assessees.

Sir, I move.

Mr. President: The question is:

"That the Bill to amend the Indian Finance (Supplementary and Extending) Act, 1931, for a certain purpose, be taken into consideration."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Part I A was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir George Schuster: I move that the Bill be passed.

Mr. B. Das (Orissa Division: Non-Muhammadan): Sir, I only wish to make one observation, that is, that the Honourable the Finance Member brought in this amendment Bill to an Act (the Supplementary Finance Act) which was certified. I wish he had taken steps for incorporating these particular clauses also by the same process of certification. I wish he had done that.

Mr. President: The question is that the Bill be passed.

The motion was adopted.

THE WHEAT IMPORT DUTY (EXTENDING) BILL.

The Honourable Sir George Rainy (Member for Commerce and Railways): Sir, I move that the Bill to extend the operation of the Wheat Import Duty Act, 1931, be taken into consideration. I do not think it will be necessary that I should make a long speech in explanation or in support of the motion which I have moved. When the original Bill came

before the House a year ago, it was a somewhat novel departure from what had been our accepted policy, that foodstuffs should be free of duty, or at any rate the primary foodstuffs. But obviously when the Legislature has once adopted the principle of a measure of that kind, then when the question arises whether the period during which it is to remain in force should be extended, all that is necessary to establish is that the circumstances have not so changed as to render unnecessary or inexpedient what a year ago the Legislature decided was both necessary and expedient. I find that in the beginning of April last the price of wheat at Lyallpur was 1-14-0 a maund, whereas the price of Australian wheat in London—and that is the most convenient price to take—was 21-3*d*. a quarter. Since then there have been variations in price, but the latest price I have for January shows that whereas the price in Lyallpur had risen to Rs. 2-9 a maund, the price in London had risen to 28*s*. In both cases the percentage of the increase in price is about the same. But during the intervening period it is by no means the case, that the two prices followed the same course. In July, for instance, whereas the price in London had increased to a small extent, the price at Lyallpur had gone down to Rs. 1-9-0 a maund, very distinctly below the April price.

Now, some Honourable Members may conceivably say that in view of the fact that, when the Assembly passed the Act last year, the price at Lyallpur was less than Rs. 2 a maund, and since the price today has risen appreciably and is now in the neighbourhood of Rs. 2-8-0 of Rs. 2-9-0 a maund, the need for the duty is not at any rate so great as it was. In answer to that, I think the most important point to remember is this, that for the five years 1909-10 to 1913-14 the price at Lyallpur averaged Rs. 3-14-0 a maund, and at Rs. 2-8-0 a maund today the price of wheat at Lyallpur is only about two-thirds of the pre-war average. If that be so, the necessity for special measures to aid the agriculturist still exists and I think the general opinion in this House will support Government in the conclusion they came to that, as things are today, the need for the protective duty still exists and has by no means passed away.

In explanation of the particular clauses of the Bill, I need only say a word or two. Clause 2, which is the important clause, merely provides that for the figures "1932" the figures "1933" should be substituted; and clause 3 of the Bill repeals section 3 of the Act. That section was passed for a temporary purpose to exempt from customs duty all wheat shipped by a seller in compliance with a contract of sale made by him before a certain date. I think there can be no doubt that any wheat which was ordered before that date has already come into the country, and therefore that particular section of the Act is merely surplusage and it is better to remove it when we are extending the Act.

Finally, I should like to say this. When I explained the provisions of the original Bill last year to the House, I pointed out that there were two ways in which a protective duty might assist the indigenous producer. One was by extending his market to the extent to which indigenous wheat, or the indigenous article whatever it may be, replaces the imported article; and I said that in so far as that was concerned, the Bill would be effective. But I also pointed out that in another respect in which protective duties ordinarily assist the indigenous producer, the same result could not be expected. Ordinarily when a protective duty is imposed, the price is raised to the full extent of the duty. But that is so only

[Sir George Rainy.]

when the price of the indigenous article is regulated by the cost of importation. That had ceased to be the case in India last year, and it was very noticeable that at the time the duty was imposed it did not result in any increase in the price of wheat at all. Since then there has been an increase of prices, but the price of wheat in other countries has risen to a corresponding extent. Therefore, it is still true that the price in India is out of relation with world prices. What the future course of events may be it is very difficult to say. But if for any reason there should be a shortage of wheat in India, and if there should be simultaneously a general rise in world prices, so that the duty became fully effective in raising the price, the Act itself contains a provision by which Government can take action to prevent the imposition of an excessive burden upon the consumer. That point, therefore, has not been overlooked. I do not think at this stage I need say more. Possibly, when some of the amendments are moved, I may have an opportunity of adding to what I have said; but for the moment I move.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, all the persons interested in agriculture,—and 95 per cent. of the population are interested in it,—will be thankful to the Government for introducing this Bill. The general impression in the country is that the attitude of the Government of India is that all agricultural problems are really the concern of God and of the Local Governments, and the Central Government have nothing to do with them. God regulates the monsoon and the distribution of rain on which agricultural prosperity greatly depends, while the Local Governments settle all the connections between the tenants and landlords and all other problems concerning agriculture. Sir, till recently the Government never paid any attention to agricultural problems. Mr. Birla in 1929, I think—it was the 19th March, if I remember aright—drew the attention of the Government of India to the matter, and requested them to take some action on it. He then pointed out that India used to export wheat to other countries, but the case had been the other way round since 1929; that is, India imported more wheat and exported less, so that the total amount of export in 1929, to which Mr. Birla then drew attention, was a negative quantity. Last year the Honourable the Finance Member very reluctantly brought forward a Bill which is now being reproduced this year. I use the words "very reluctantly", because the Finance Member went out of his way and proposed the abeyance of the terms of that Bill for six months, and the result was that during these six months, *i.e.*, from 1st April till August, 1931, we imported 111,269 tons of wheat . . . .

The Honourable Sir George Rainy: May I point out, Sir, that the blame or the praise should fall to me and not to my Honourable colleague?

Dr. Ziauddin Ahmad: I take it that it was a joint responsibility. I am addressing the Government of India. They gave special concessions to importers of wheat and they allowed wheat to come in without any extra duty till the end of August. The result was that during these six months they introduced about 111,269 tons of wheat, which was about three times the amount of wheat we imported during the same months in the previous year, so that in these months of concession we imported what under normal conditions we would have imported throughout the whole year. This Bill had not thus had any practical effective influence on the quantity of imported wheat. The Government under pressure passed the Bill, but special allowance was given to merchants who had made their contracts before a certain date. The other reason why I use the words "very reluctantly" is that Government have not taken any special measures to regulate the prices. Had they been keen to help the agriculturists, they could have reduced the freight on wheat from Lyallpur to Calcutta and to other ports from which wheat is exported. It was also pointed out by Mr. Birla in 1929 that the freight from Lyallpur to Calcutta was Rs. 1-6-6,—if I remember rightly and I quote from memory—and the freight from Australia to Calcutta was only 6 annas. He also said at that time that it was an anomaly that while the Punjab was exporting wheat to outside countries from one port, Bengal and the United Provinces were importing wheat from Australia through another port. The Government of India ought to have paid serious attention to this problem three years ago. Had the Government really taken strong action in this matter about three years ago, then all the troubles we are faced with today would have been minimised and probably there would have been no necessity for the Retrenchment Committee, nor would it have been necessary to take all the drastic action that we were compelled to take during the last few months. Sir, a similar crisis occurred some years ago in Egypt in connection with cotton. Then the Government of Egypt came forward to the relief of their agriculturists. They warned them to diminish the growth of cotton, and the Government spent the resources of the country in purchasing the indigenous cotton and selling it in their own way. This is how the Egyptian Government dealt with their agriculturist. Now, I ask whether the Government of India took any action whatsoever to give relief to agriculturists who are really the mainstay not only of the people of the country but also of the entire Government,—the Local Governments and the Central Government.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): It is the duty of the United Provinces Government. How is it the duty of the Central Government?

Dr. Ziauddin Ahmad: My friend says that it is the duty of the United Provinces Government. The theory of the Central Government, as I said in the beginning, has always been that it is the concern of God and of the Local Governments. The Government must have found from their statistics about two years ago that India grew something over 10 million tons in 1929, while the consumption was about 8 million tons, so there was extra production of about 2 million tons about two years ago, and there was over production, about one million tons last year. Provision should have been made for the sale of this extra wheat which we grew. But instead of providing facilities for the sale of excess wheat which we grew, they really provided an inlet for the wheat to come from other countries. Had our Government taken a sympathetic attitude towards agriculturists, then this Import Bill which we are discussing in 1932 would have been passed two years ago. If we could not provide a market for our own wheat outside, at least we ought to have provided a market for our wheat in our own country and then our troubles would not have been so acute as they are today.

Sir, the Bill which is now before us will give some relief, but it is very alarming that this relief is only for a temporary period, because as the circumstances now exist, it is very unlikely that we can expect a better position within the next 12 months. Probably it may take two years, or even

[Dr. Ziauddin Ahmad.]

a longer period, to come to normal conditions. Therefore, to restrict the operation of a Bill of this kind only for a period of one year is another complaint which the agriculturists of this country have against the Central Government. This is also a very important point, and I hope the Government will look into the troubles of the agriculturists. The Finance Member by his inflation policy is making a fortune. The Government are paying their debts in England. Is it not reasonable that a portion of this fortune which the Finance Member is making at the expense of poor agriculturists who on account of distress are selling their gold should be utilised in giving relief to our poor agriculturists? And will not Government come forward and give a little relief to the agriculturists also at this time when it is badly needed? The relief can be given by carrying agricultural products at a very cheap rate, if possible entirely at the expense of the Government, from the place where the wheat is grown to the port, so that it may be sold outside at cheaper rates. Government may go further. The surplus quantity may be purchased by the Government, as the Egyptian Government did some years ago, and then it may be sold by the Government even though at a loss. No doubt a little loss would be incurred, but considering the fortune which the Government are making now by printing notes, I think they can as well spend something on these agriculturists. Though I welcome this Bill, still I have a serious complaint that its operation is restricted to only one year.

4 P.M.

Mr. C. C. Biswas (Calcutta: Non-Muhammadan Urban): There is a saying in Bengali, "He, for whose sake I steal, calls me a thief!" I do not know if the speech of my Honourable friend Dr. Ziauddin Ahmad has produced a similar feeling in the Honourable the Leader of the House. Last year when introducing this measure for the protection of Indian wheat producers, the Leader of the House explained, and he has repeated it to-day, that he was taking a step which was opposed to the accepted policy of the Government of India as laid down in the Report of the Indian Fiscal Commission—not to tax foodstuffs. Having made that departure, taking courage in both hands, and taxed Indian wheat, I should have thought that the Honourable Sir George Rainy was entitled to the gratitude of those who supported him on the last occasion, but it is only a half-hearted compliment that Dr. Ziauddin Ahmad has paid to my Honourable friend to-day. Not only, Sir, is there no case for extending this protection till the end of 1934, I should doubt very much if there was any case for extending it even up to 1933. We have not been supplied with figures showing how the wheat position stood during the last 10 or 11 months. It has been taken for granted—that is the statement which you will find in the Statement of Objects and Reasons—that the wheat position to-day is very much the same as it was last year, and that the need for continuing this protection is still there. I should like to ask my Honourable friend opposite how far he is satisfied that the duty which was put on last year has really benefited the producers and not the speculators. If he has any information on that point, I think the House is entitled to it. If that information is not available, then the House is entitled to know what enquiries he had made to elicit information on that point. My Honourable friend will remember, that was the fear which had been expressed on the floor of the House last year—that the object of this duty was not so much to protect the producers, but it was for the benefit of the speculators and the holders of stocks. Then, the other point on which I should have liked information was this, how far my Honourable friend is satisfied that there was that huge surplus of exportable wheat, of which we had then heard so much in this House,—whether or not that surplus was a myth. Thirdly, I should like to know how far an outlet has been found for this surplus, if there was a surplus, in other countries, or is it or is it not a fact that the price of Indian wheat which was already above world parity then still remains above such parity, probably stands much higher than what it was last year. How is it proposed, if there was and still remains such a huge surplus, to give relief to the producers, assuming for the moment that these stocks are not in the hands of the speculators already, but are at the disposal of the producers? Then, last year I believe we were told that one reason why it was not possible to fix this duty—assuming it was a protective duty—at the figure which would be represented by the difference between the price at which wheat was being imported and the fair selling price of wheat—was that both those data were uncertain. I should like to know what has been the actual experience, what attempts have been made during the past few months since the new duty was imposed to ascertain what the actual average import price or what the fair selling price worked out at. These are some of the questions on which I expected the Honourable Member would give us some information. Having swallowed the pill once, I do not mind if it goes on for another year, but what I do submit is this, that in order to justify the continuance of an exceptional measure of this kind, the Government were certainly bound to place all the facts and figures before this House, because I am quite sure that my Honourable friend will not deny that this is an exceptional piece of legislation which can be justified only by exceptional circumstances.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): I support the motion for consideration. For the information of my Honourable friend who has just spoken, I may say one word to him, that he must see the results which had been produced by the introduction of this Bill last year. Last year when this Bill came into effect, it allowed many people to bring in wheat without any duty up to a certain period, which ran into the present financial year, and the effect of that was that there was so much surplus wheat in the country and the imported wheat was so cheap, that it really controlled the price, and at the time of harvest we found that the price went down as low as 23 seers per rupee. In Lyallpur and other places in the Punjab wheat was sold at Rs. 1-4-0 a maund. That was really the destruction of the Indian villagers in the north of India. The economic depression was so acute that we found people deserting the villages, and this fact gave a good deal of food for the Congress propaganda in the country. This was my contention even in the beginning of last year, that by not introducing this Bill the Government was playing into the hands of their own enemies. The result was exactly the same as had been predicted a year before. Now, this problem of depression continued over a long period during the present financial year, until the whole stock was exhausted and the import ceased. Now, the effect is that although wheat was sold at Rs. 1-4-0 a maund in May and June, it is now Rs. 3 per maund. If wheat is sold at Rs. 3 per maund today by extending the period of this Bill it is expected that at the most 15 seers per rupee might be sold at the time of the harvest, but the prices will certainly not go down beyond that. They might remain at 13 seers per rupee in places other than the Punjab. If the period is not extended, the result

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will be that nobody will like to grow wheat and they will never be able to find sufficient money to invest in the produce of wheat, and the result will be that the village population will be starving and they will be left without any employment. If they are left without any employment, these millions and millions of people will not be able to find any employment in the cities or elsewhere. Speaking on behalf of my class, that is the zamindars, I can say that we shall be ruined absolutely. We won't be able to collect any rents because the tenants will have nothing to pay and if the zamindars cannot collect rent Government will not get any revenue. Let them sell the lands for whatever they like. They can very well auction the villages and they will find no bidders to purchase the same. That is the effect which this acute economic problem will produce in the villages. On these grounds, I welcome this Bill. When the clauses come on, I shall deal with them on their merits.

The Honourable Sir George Rainy: Sir, I do not propose to say more than a very few words. My friend Dr. Ziauddin Ahmad is a most resolute Oliver Twist who is always wanting more, and I am not in the least surprised that while he bestowed a somewhat mild encomium on my present effort, he devoted the greater part of his speech to explaining the faults I had committed in the past, although he a little unfairly attributed them to my Honourable colleague, the Finance Member. I do not think, Sir, I need deal further with his speech. As regards what fell from my Honourable friend Mr. Biswas, I should like to say this. He asked how this duty had benefited the producer of wheat in India. My answer is that it has benefited the producer in India to this extent that, but for the Bill, not only would a certain quantity of wheat have been imported during the first six months but the imports of wheat would still be going on and probably in much larger quantities. The Bill, it is true, has not had much effect in raising prices, but it has at any rate had the effect of preventing a further drop. I have not the least doubt myself that it has been a distinct benefit to the cultivating classes. Then he put a question about the alleged surplus of wheat in Northern India. I have always been a little sceptical myself when people publish figures purporting to give the amount of surplus, as for example, a million and a half tons, or two million tons, or whatever the figure may be. There has never been any definite proof of the amount, and undoubtedly the evidence which has been accumulating has pointed to the conclusion that the estimates of the surplus have erred a good deal on the large side. That is certainly the impression which I have myself formed.

Another small point that he raised was why did we not fix the rate of duty at what we considered to be the difference between the imported price and the fair selling price. If he will turn to the speech which I delivered last year—it is asking a great deal of anyone, I admit, to ask him to read one's own former speeches—he will find something which is relevant to his inquiry. I do not think, Sir, I need add anything more.

Mr. President: The question is that the Bill to extend the operation of the Wheat (Import Duty) Act, 1931, be taken into consideration.

The motion was adopted.

Mr. President: The question is that clause 2 stand part of the Bill.

(Dr. Ziauddin Ahmad got up to move his amendment to clause 2: "In clause 2, for the figures '1933' the figures '1934' be substituted".)

The Honourable Sir George Rainy: On a point of order. The extension of the period of the duty proposed by this amendment, in a taxing measure, requires the previous sanction of the Governor General.

Dr. Ziauddin Ahmad: Does the motion for reduction of the duty also require previous sanction of the Governor General in Council?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is aware of the ruling I gave on the occasion of the Finance Bill. With regard to the point of order, the sanction of the Governor General is necessary if the proposed taxation is to be extended to another year. The Chair should like to know whether the Honourable Member has obtained the sanction of the Governor General.

Dr. Ziauddin Ahmad: I gave only a notice to this effect.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): If the sanction of the Governor General has not been obtained the amendment can not be moved.

The question is that clause 2 stand part of the Bill.

The motion was adopted.

Clause 2 was added to the Bill.

Mr. G. Morgan (Bengal: European): Mr. President, I beg to move the amendment that stands in my name:

"That after clause 2 of the Bill the following new clause be inserted and consequential amendments be made:

'3. In section 2 of the Wheat (Import Duty) Act, 1931, for the words 'two rupees per hundredweight' the words 'one rupee per hundredweight' shall be substituted'."

I think Honourable Members of this House are probably not quite aware of what I mean by this amendment. This amendment is not aimed at a reduction in the price to enable imported wheat to compete with Indian wheat. I go on the figures of Indian wheat as they stood last year. Before the Bill was brought in last year, if my figures are correct, the price was about Rs. 2-14-0 per maund and the duty put on was Rs. 1-8-0 a maund, that is Rs. 2 a hundredweight. The price of Rs. 4-6-0 is arrived at landed at the port, and although Government felt that they could not decide what was actually a fair selling price—that is to say, they could not state whether it should be Rs. 3-12-0 or Rs. 4 or Rs. 4-6-0, and that with the markets continually changing, there would have to be constant variations in their rate of duty. I take it we are satisfied that the price of Rs. 4-6-0 was a fair selling price; anyhow between four rupees and that price. Now the object of my amendment is to bring the present position into line with the position when the Bill was introduced last year. The price has risen; it is somewhere in the region of Rs. 3-10-0 today. The duty is still Rs. 1-8-0, and the surcharge is 6 annas, which brings

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the price to Rs. 5-8-0. Now, if my amendment is accepted, the position that will be created is that the figure of Rs. 4-6-0, which was the basic figure when the first Bill was introduced, will be restored . . . . .

The Honourable Sir George Rainy: May I put one question to my Honourable friend? Are the prices he is quoting the prices per maund at Calcutta?

Mr. G. Morgan: Yes, Sir, and that will still keep the fair selling price of Indian wheat at Rs. 4-6-0 which was the price which was in everyone's mind as being a fair selling price when the duty was put on at Rs. 2 per cwt. Therefore, there is no change in the position so far as agriculture is concerned. The only thing one wants to avoid is undue inflation of price—I know that the Governor General in Council has power to remit or reduce the duty—but that requires investigation and a special procedure which might take a long time, whereas this amendment of mine brings the position back to where we were when we passed the Bill last year. There is no change at all from that position, except in the case of some of our Honourable friends who objected to clause 3. The reason why I would like to have that position continued on a basis of Rs. 4-4-0 or Rs. 4-6-0 is that we do not want to run the risk of raising the price of flour, or the price of wheat, beyond a certain limit. We all think this price is a fair selling price, and we do not want the consumer to have to resort to inferior classes of grain which might be selling cheaper. The price of flour is very important, and that should not be raised beyond a certain limit. I am only basing my arguments on the fair selling price of Indian wheat, and I am quite sure that Honourable Members in this House will agree that Rs. 4 to Rs. 4-6-0 is a fair selling price for Indian wheat landed at Calcutta. Quotations have been given just now which show that Rs. 3-6-0 is the price ruling in some upcountry markets and the Honourable the Leader of the House said that was the average pre-war rate. If you take Rs. 4-6-0 as the selling price of wheat in Calcutta and take an average of one rupee as the railway freight, it comes to Rs. 3-6-0 at, say, Lyallpur, against Rs. 1-4-0 and Rs. 1-8-0, the prices quoted by my Honourable friend Mr. Yamin Khan, at this time last year, and my amendment does not change that position at all. And I challenge anyone to say that there is any prospect of a fall in prices to such an extent as would necessitate an alteration in that price. The price today of imported wheat is Rs. 5-4-0 *plus* duty out of all proportion to the price of Indian wheat, and I, therefore, Sir, move my amendment. In that connection I would just like to read an extract from the speech of my Honourable friend, the Leader of the House, last year, in connection with the surplus my Honourable friend, Mr. Biswas, spoke about:

"It is obvious that once this surplus is absorbed and the duty becomes fully effective in raising the price of wheat, then the question must arise, which Government are bound to consider, as to whether a duty, as heavy as the duty which this Bill seeks to impose, would not be too severe upon the consumer;"

I maintain that two rupees per cwt. is too high, and that reducing it to one rupee would put us in the same position as we were in last year, and should not prove to be too severe on the consumer.

Dr. Ziauddin Ahmad: Sir, I gave notice of two motions which on account of the fact that they did not receive the assent of the Governor

General in Council, could not be discussed. I thought that the Bill which is now before us did not go far enough and I therefore made two suggestions: that is, the import duty should be raised from Rs. 2 to Rs. 2-8-0, and the term of this Bill may be extended to one or two years, but the proposition which is now before us is just the reverse (Laughter), and I would request the Honourable the Mover and my friend, Mr. Biswas, to consider the problem from another point of view, and it is this. In 1929-30, India produced about two million tons more wheat than her consumption, that is, the production was about 10¼ million and the actual consumption was about 8¼. Now last year in 1930-31 we produced about one million more than our consumption; so we have got lying somewhere, either with the tenants or landlords or in granaries, about 3 million tons of wheat.

Mr. N. M. Joshi (Nominated Non-Official): May I ask my Honourable friend, why was it that excess production was brought about?

Mr. G. Morgan: From what year did the Honourable Member say the surplus started?

Dr. Ziauddin Ahmad: We passed the Bill providing for an import duty on wheat last year, but made certain concessions. The result during the first six months when the concession was allowed was very alarming; that is, from the 1st April till the end of August—I have now got the accurate figures—we imported 111,269 tons of wheat, during five months while the import last year during the same months was only 40,000 tons. So, on account of the special concession, we imported enormous quantities of wheat and thus added to our surplus. Now as soon as this duty of two rupees was fully in operation, then the import was stopped altogether; that is, in the months of September, October, November and December India did not import a single grain of wheat from outside. Now as regards the export of wheat, the position is very unfortunate; that is, during the same months from April to August last year, we exported 156,240 tons, while this year we could only export 16,752. Look into the figures 111,269 tons of wheat were imported, while we could only export 16,752 tons: so that there has been an enormous amount of wheat coming into the country and adding to the surplus of the last two years, which is over two million tons. Now what are you going to do with this surplus? Are we not going to be poorer on account of this waste? Perhaps my friend, Mr. Biswas, has very great sympathy for persons engaged in the import trade. I also have very great sympathy for them, but I have still greater sympathy for the millions of people who are dying of starvation on account of the wrong policy of the Government of India.

Mr. S. C. Mitra: Those people you refer to get food cheaper.

Dr. Ziauddin Ahmad: My friend raises the question of food being cheaper. Sir, cheapness is always good to a certain extent, but if you make everything very cheap. The gain of the consumer is the loss of the producer. We have to maintain the balance beyond which we cannot go on either side.

Mr. S. C. Mitra: Bengal always pays.

Dr. Ziauddin Ahmad: As regards Bengal, we will discuss it when we come to the question of rice in which Bengal is intimately interested.

[Dr. Ziauddin Ahmad.]

The problem that we have got to consider is that we have got a surplus of wheat lying in the country and we ought to provide a market for it. If it is not within the power of the Government of India to provide a market outside India, it is certainly within the power of the Government of India to provide a market internally by not allowing any more wheat to come into this country. The question of prices is a matter which is not of such a great consequence as the fact that we have got a large quantity of surplus wheat lying in the country and we cannot possibly afford to have more wheat from outside.

Mr. Muhammad Yamin Khan: Sir, the object of the Bill is to give protection to the cultivator and to keep the industry of wheat intact. If the protection is not given, then the net result will be that nobody will produce wheat, and India, instead of remaining the chief wheat producing country, will allow Canada or Australia to capture the wheat industry. People who are living in the villages who form 80 per cent. of the population of India depend upon agriculture and agricultural industry. This means that we are depriving them of their livelihood and we will thereby force them to migrate from their villages and thus become paupers. That will be the net result if the protection is not given to safeguard their industry. The question is not the cheapness or the dearness of any commodity. There are some provinces which produce one kind of commodity and there are other provinces which produce another kind of commodity. We have got no contention against the products of Bengal and I shall be as much pleased to give protection to the products of Bengal as to the products of the United Provinces and the Punjab.

Now, I have got to tell the House what this amendment proposes to do. The amendment directly negatives this principle, and what my learned friend wants to do is to benefit the importers. The object of the amendment is not to benefit the producer but the importers. What he wants by the reduction of the duty is that the importer from outside may be able to compete with the Indian producer.

Mr. G. Morgan: My friend has entirely misunderstood me. That is not my object.

Mr. Muhammad Yamin Khan: There can be no other object of this amendment. When he wants the duty to be brought down, there can be no other object than to benefit the person who can import from outside India. Otherwise, the amendment will be meaningless. It does not matter what the amount of the duty is if that is not the object. It may be Rs. 2 or Rs. 5 or even Rs. 10. It does not matter at all except in so far as it affects the man who brings wheat from outside India.

Mr. N. M. Joshi: What about those who purchase wheat?

Mr. Muhammad Yamin Khan: My Honourable friend Mr. Joshi is interested in a handful of people who are working as labourers in the mills. I am ashamed to admit that he calls himself the representative of labour when he does not represent the labour that is living in the villages.

Mr. N. M. Joshi: May I ask how many men own land in India?

Mr. Muhammad Yamin Khan: There is no question of owning land.

Mr. N. M. Joshi: It is certainly a question of owning land.

Mr. Muhammad Yamin Khan: It is a question of the labourers in the fields. It is the question of the labourers who live in villages. It is not the question of the landlords whose number is small. They may be wiped out. It is the question of the labourers and the cultivators who cannot get even one meal a day. It is the question of their livelihood. If they do not get the return on the money they have invested, they will be deprived of cultivation and of their labour. They cannot get any labour anywhere except in the fields and that labour depends upon the proper return on their investment. If a man spends about Rs. 2 as capital on the cultivation of one bigha of land, he certainly expects that he must get at least Rs. 3 worth of wheat, so that he may be able to pay back Rs. 2 which he had borrowed and keep Re. 1 as his profit which is really his wages and not profit. On the other hand, my friend's labourers might be smoking away so much money which a labourer in the fields cannot get even for his meals. My friend may be interested in the cheapness of the commodity, but he must realise that the Bill is not in the interests of those labourers who reside in big towns but in the interests of those labourers who are residing in the villages. Sir, my friend the Mover of this amendment wants to take away this principle from the Bill. I would much prefer that this handful of people in whose interest this amendment is moved and who were allowed probably up to the end of June to import free of duty because they had made certain contracts up to a certain period, take away their mills from India. If these people were to take away their machinery from Bombay and Calcutta and instal it in some place outside India, it would be much better. They must leave the agriculturists free. It is due to economic depression that the present situation has arisen and the Government, I hope, will not commit all kinds of blunders which they made last year. If the Government continue to listen to their advice, they will soon find that they will have no supporters in the country left. It is because of this economic depression that the country has not been supporting the Government, and in two years' time, if the present condition of things continues, the whole country will rise in a revolt against the Government.

Mr. President: Will the Honourable Member now come to the amendment that is before the House on which he is addressing it?

Mr. Muhammad Yamin Khan: I maintain, Sir, that this amendment is designed in the interests of other countries and not India. It seeks to benefit the producers of Australia and Canada and a handful of people who have put up their machinery in Calcutta and Bombay and who export flour which is not meant for the consumption of the Indian people but is meant to be exported to Egypt and other places. I, therefore, oppose the amendment.

The Honourable Sir George Rainy: Sir, I regret that I am not in a position to accept the amendment moved by my Honourable friend Mr. Morgan. His whole argument was based on an assumption which I do not think can be justified. The assumption was this, that Government must have fixed the amount of duty at Rs. 2 per cwt. on the basis that that duty would suffice to give the producer in India a fair selling price. Now I thought that I made it clear in my speech last year that that was

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not the basis on which Government was proceeding. I do not propose to quote more than a few words of what I then said. I said:

"They did not feel that it was possible to proceed in the way in which the Tariff Board usually proceed when they make enquiries about protective duties, because on the one hand it is extraordinarily difficult to determine what is the fair selling price for Indian wheat, and even if it were possible to determine it there is no means available at the moment by which it could be secured."

Therefore, Sir, a great deal of my Honourable friend's argument falls to the ground. In fixing the amount of the duty at Rs. 2 per cwt. last year Government proceeded on the basis that it must be at such a level that there could be no doubt that, so far as securing the market for the Indian producer was concerned, it would be fully effective. It has fulfilled that object and I am not prepared to say that conditions may not be such during the coming year that a smaller duty—a duty of one rupee per cwt., for example, as recommended by my Honourable friend—would not be fully effective. It is for that reason that I am unable to accept the amendment

Mr. G. Morgan: Sir, I beg leave of the House to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Clause 3 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir George Rainy: I move that the Bill be passed.

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Saturday, the 13th February, 1932.

LEGISLATIVE ASSEMBLY.

Saturday, 13th February, 1932.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President in the Chair.

QUESTIONS AND ANSWERS.

TRAVELLING ALLOWANCE PAID ON TRANSFER TO A SUPERINTENDENT OF POST OFFICES IN MYSORE.

327. ***Mr. B. N. Misra** (on behalf of Kumar Gupteshwar Prasad Singh): Will Government be pleased to state:

(i) if it is a fact that Mr. Scott O'Conner, Superintendent of Post Offices, Mysore, asked for a shift to Malabar last year, and was transferred with travelling allowances, contrary to rules which forbid travelling allowances to officers transferred at their own request;

(ii) if it is a fact that within 48 hours of joining the Malabar Division he applied for a re-transfer to Mysore and was so re-transferred;

(iii) if it is a fact that Mr. Jaya Ram Iyer, who was transferred to Mysore to take the place of Mr. Scott O'Conner, was transferred without travelling allowances; and

(iv) if it is a fact that about four years ago Mr. Scott O'Conner was transferred from Rajahmundri to Quilon with travelling allowances, at his own request, contrary to rules and again within a year he asked for a transfer and was transferred?

Mr. T. Ryan: Government have no information. An enquiry will however be made into the matter, and the reply will be placed on the table.

STAFF OF THE OFFICE OF THE AUDITOR GENERAL IN INDIA.

328. ***Mr. M. Maswood Ahmad:** (*a*) Is it a fact that the following statement of staff of the office of the Auditor General in India as it stood on 1st April, 1931, is correct?

	Permanent.	Officiating.	Total.
I.—*Superintendents.*			
Gross No. of posts	7	4	11
Deduct—men on deputation, etc.	2	..	2
Net No. of posts	5	4	9
Non-Muslims	5	4	9
Muslims	*Nil.*	*Nil.*	*Nil.*
Percentage of Muslims	0%	0%	0%

	Permanent.	Officiating.	Total.
II.—*Assistant Superintendents.*			
Gross No. of posts	19	8	27
Deduct—No. of persons on deputation, acting as Superintendents, etc.	6	..	6
Net No. of posts	13	8	21
Non-Muslims	13	7	20
Muslim	*Nil.*	1	1
Percentage of Muslims	*Nil.*	12·5%	5%
III.—*Clerks.*			
Gross No. of posts	69	8	77
Deduct—Persons on deputation officiating as Assistant Superintendents, etc.	12	—	12
Net No. of persons on the cadre	57	8	65
Non-Muslims	51	7	58
Muslims	6	1	7
Percentage of Muslims	10·5%	12·5%	10·8%
IV.—*Typists.*			
Non-Muslims	6	—	6
Muslims	—	2	2
Percentage of Muslims	0%	—	25%
V.—*Stenographers.*			
Non-Muslims	3	..	—
Muslim	1	..	..
Percentage	25%	..	..

VI.—*Cashier.*

One cashier—Hindu.

(*b*) If the above statement is not correct, will Government be pleased to supply the correct statement according to the same schedule?

(*c*) Is it a fact that the percentage of Muslim clerks as shown in the statement in part (*a*) above is only 10·8 per cent? If so, will Government be pleased to state what steps have been taken or are being taken to improve this percentage?

The Honourable Sir George Schuster: With your permission, Sir, I will deal with questions Nos. 328 to 333 together. I presume that in question No. 331 the Honourable Member refers to the office of the Deputy Accountant General, Posts and Telegraphs, Delhi.

Parts (a) and (b) of the questions.

The statements contained in the questions are not quite correct. The communal composition of the staff on duty on the 1st April, 1931, was as shown in the statement which I lay on the table.

Part (c) of questions Nos. 328 to 330 and 332.

The correct percentages of Muslim clerks are shown in the statement laid on the table. Recruitment in all Accounts and Audit Offices is conducted strictly in accordance with the orders which reserve one-third of vacancies for minority communities.

Parts (c) to (e) of question No. 331.

(*c*) Out of a total of 36 (not 34) men served with notices of discharge, 8 are Muslims.

(*d*) The principle laid down by Government is that the ratio between the various communities existing prior to retrenchment must be maintained to the nearest practicable figure in the establishment remaining after retrenchment.

(*e*) No.

Statement showing the percentage of Muslims in certain Accounts Offices in Delhi.

—	Total No. of permanent and temporary posts.	Non-Muslims.	Muslims.	Percentage of Muslims.
Office of the Auditor General.				
Superintendents	8	8	0	0
Assistant Superintendents	19+1 (Apprentice).	19	1	5
Clerks	69	62	7	10·1
Typists	7	5	2	28·6
Stenographers	3	3	0	0
Cashier	1	1	0	0
Office of the Accountant General, Central Revenues.				
Accountants	33	31	2	6·1
Clerks	220	208	12	5·5
Divisional Accountants	15	13	2	13·3
Stenographers	2	2	0	
Typists	12	10	2	16·7
Total staff	282	264	18	6·4
Office of the Accountant General, Posts and Telegraphs.				
Senior Accountants		9	0	0
Clerks		60	4	6·25
Stenographers and Typists		4	0	0

—	Permanent.	Temporary.
Office of the Deputy Accountant General, Posts and Telegraphs, Delhi.		
1. Subordinate Accounts Service—		
Non-Muslims	18	5 Offg. Accountants against leave and deputation vacancies.
Muslims	1	2
Vacant	1	..
2. Upper Division Clerks—		
Non-Muslims	261	16
Muslims	76	1
Vacant	17	..
3. Lower Division Clerks—		
Non-Muslims	49	43
Muslims	15	11
Vacant	4	..
Percentage of Muslims	21·9	17·9

—	Non-Muslims.	Muslims.	Percentage of Muslims.
Office of the Director of Railway Audit.			
Senior Auditors	5	0	0
Junior Auditors	3	1	25
Clerks (Upper Grade)	7	3	29
Clerks (Lower Grade)	4	1	20
Typists	2	0	0
Stenographers	2	0	0
Office of the Audit Officer, Indian Stores Department.			
Accountants	16	0	0
Clerks (Permanent)	81	7	8
Clerks (Temporary)	12	7	37

STAFF OF THE OFFICE OF THE ACCOUNTANT GENERAL, CENTRAL REVENUES.

†329. ***Mr. M. Maswood Ahmad:** (*a*) Is it a fact that the following statement of the staff of the office of the Accountant-General, Central Revenues, as it stood on 1st April, 1931, is correct?

Establishment of Accountant-General, Central Revenues, on the 1st April, 1931

Kind of posts.	Permanent.	Provisional.	Quasi.	Offg.	Total.
I.—*Senior Accountants and Accountants.*					
Gross No. of posts	36	5	3	10	54
Deduct—posts vacant	2	..	..	..	2
Deduct—No. of men on deputation to other offices or acting as Assistant Accounts Officers	16*	..	..	..	16
Net No. of posts	18	5	3	10	36
Non-Muslims	17	5	3	10	37
Muslim	1	..	..	..	1
Percentage of Muslims	5·6%	0%	0%	0%	2·8%
II.—*Divisional Accountants.*					
Gross No. of posts	13	..	2	2	17
Deduct—No. of men officiating as Subordinate Accounts Service, posts vacant, etc.	3	..	..	..	3
Net No. of posts	10	..	2	2	14
Non-Muslims	9	..	2	2	13
Muslim	1	..	..	..	1
Percentage of Muslims	11%	0%	0%	0%	7·5%
III.—*Clerks.*					
Gross No. of posts	204	40	8	34	346
Deduct—posts vacant	4	..	..	..	4
Deduct—No. of men officiating as Subordinate Accounts Service and also on deputation to other offices.	110	5	..	..	115
Net No. of posts	150	35	8	34	227
Non-Muslims	142	34	8	30	214
Muslims	8	1	..	4*	13
Percentage of Muslims	5·3%	2·9%	0%	11·8%	5·7%

*The two Muslim clerks have already been discharged and the percentage of the Muslims in the officiating list has been reduced from 11·8% to 6·6%.

	IV.—*Stenographers.*	V.—*Typists.*
No. of posts	2	11
Non-Muslims	2	9
Muslims	..	2
Percentage of Muslims	0%	18·1%

(*b*) If the statement is not correct, will Government be pleased to supply the correct statement according to the same schedule?

(*c*) Is it a fact that the percentage of Muslim clerks as shown in the statement at part (*a*) above is only 5·7 per cent.? If so, will Government be pleased to state what steps have been taken or are being taken to improve this percentage?

†For answer to this question, see answer to starred question No. 323

STAFF OF THE OFFICE OF THE ACCOUNTANT GENERAL, POSTS AND TELEGRAPHS.

†330. ***Mr. M. Maswood Ahmad:** (*a*) Is it a fact that the following statement of staff of the office of the Accountant-General, Posts and Telegraphs, as it stood on 1st April, 1931, is correct?

Office of the Accountant-General, Posts and Telegraphs, on 1st April, 1931.

	Non-Muslims.	Muslims.	Percentage of Muslims.
Senior Accountants	9	0	0%
Clerks	60	4	6·6%
Stenographers and Typists	5	*Nil*	0%

(*b*) If the above statement is not correct, will Government be pleased to supply the correct statement according to the same schedule?

(*c*) Is it a fact that the percentage of the Muslim clerks as shown in the statement in part (*a*) above is only 6·6 per cent.? If so, will Government be pleased to state what steps have been taken or are being taken to improve this percentage?

STAFF OF THE OFFICE OF THE DEPUTY ACCOUNTANT GENERAL, POSTS AND TELEGRAPHS.

†331. ***Mr. M. Maswood Ahmad:** (*a*) Is it a fact that the following statement of staff of the office of the Deputy Accountant-General, Posts and Telegraphs as it stood on 1st April, 1931, is correct?

Establishment of Office of the Deputy Accountant General, Posts and Telegraphs

	Permanent.	Temporary.
1.—Subordinate Staff		
Non-Muslims	30	—
Muslims	4	—
2.—Upper Grade.		
Non-Muslims	271	17
Muslims	73	—
3.—Lower Grade.		
Non-Muslims	87	53
Muslims	35	14
Total Non-Muslims	388	70
Total Muslims	112	14
Percentage of Muslims	22·4%	13·3%

(*b*) If the statement is not correct, will Government be pleased to supply a correct statement according to the same schedule?

†For answer to this question, *see* answer to starred question No. 328.

(*c*) Is it a fact that 8 Mussalmans out of a total number of 34 discharged have been reduced in the office of the Deputy Accountant-General, Posts and Telegraphs?

(*d*) On what principle did Government retrench these hands?

(*e*) Was any written test as to the comparative ability of the different employees discharged taken?

STAFF OF THE OFFICE OF THE AUDIT OFFICER, INDIAN STORES DEPARTMENT.

†332. ***Mr. M. Maswood Ahmad:** (*a*) Is it a fact that the following statement of staff of the office of the Audit Officer, Indian Stores Department as it stood on 1st April, 1931, is correct?

Office of the Audit Officer, Indian Stores Department.

	Hindus.	Muslims.	Percentage of Muslims.
Senior Accountants	23	..	0%
Clerks (Permanent)	89	5	5·3%
Clerks (Temporary)	13	7	35%
Total No. of Clerks	102	12	10·5%

(*b*) If this statement is not correct, will Government be pleased to supply a correct statement according to the same schedule?

(*c*) Is it a fact that the percentage of the Muslim clerks in the office of Audit Officer, Indian Stores Department is 5·3 per cent.? If so, will Government be pleased to state what steps have been taken or are being taken to improve this percentage?

STAFF OF THE OFFICE OF THE DIRECTOR, RAILWAY AUDIT.

†333. ***Mr. M. Maswood Ahmad:** (*a*) Is it a fact that the following statement of staff of the office of the Director, Railway Audit as it stood on 1st April, 1931, is correct?

Establishment of the Office of the Director of Railway Audit.

	Hindus.	Muslims.	Percentage of Muslims.
Senior Accountants	5	..	0%
Junior Accountants	4	1	20%
Clerks (Upper Grade)	10	3	23·1%
Clerks (Lower Grade)	5	1	16·6%
Typists	2	..	0%
Stenographers	2	..	0%

(*b*) If this statement is not correct, will Government be pleased to supply the correct statement according to the same schedule?

ALLOTMENT OF FURTHER DAYS FOR THE DISCUSSION OF NON-OFFICIAL BILLS IN THE LEGISLATIVE ASSEMBLY.

334. *Pandit Ram Krishna Jha: (*a*) Are Government aware that there is a large number of non-official Bills pending, of which notice was given about a year ago, but which could not be yet introduced by reason of the insufficient number of days allotted to the non-official Bills?

†For answer to this question, *see* answer to starred question No. 323.

(*b*) Are Government prepared to recommend the allotment of two days more for non-official Bills during this sitting of the Assembly in March next?

The Honourable Sir George Rainy: (*a*) Government are aware that a number of Bills have been pending for introduction since last year.

(*b*) The allotment of days for the transaction of non-official business rests with the Governor General. So far as I can judge at present, it will not be possible for Government to recommend to him the allotment of two additional days this session.

PURCHASE OF THE BENGAL AND NORTH WESTERN RAILWAY.

335. ***Pandit Ram Krishna Jha:** (*a*) Will Government be pleased to state whether the Bengal and North Western Railway authorities have accepted the proposal of Government made to them on the recommendations of the Bengal and North Western Railway Purchase Committee of this House in the matter of the purchase of the Bengal and North Western Railway including the Tirhut section?

(*b*) If so, will Government be pleased to lay the whole correspondence on the table?

(*c*) If they have not accepted it, what steps have Government taken or are they going to take in the matter?

Sir Alan Parsons: I would refer the Honourable Member to the reply I gave on the 3rd February, 1932, to Dr. Ziauddin Ahmad's starred question No. 148 on the same subject. I can, however, add a little information to the reply I then gave. Though we have not yet received official confirmation, a report of the shareholders' meeting, which appeared in the Press a few days ago, showed that the Company had agreed to give the Secretary of State an option to purchase in 1937, and again, if that option was not exercised, in 1942, with a reduction in their charge for working the Tirhut Railway in the meantime.

Dr. Ziauddin Ahmad: Has not the financial position of the Government of India substantially changed on account of the flight of gold compared to what it was in the month of September? Are not the Government of India able to pay now?

The Honourable Sir George Schuster: I think perhaps I had better deal with that question. I am very glad to say that the financial position of the Government of India as regards meeting their sterling demands has very substantially improved since last September; but I think it will be going rather far to say that the Government is in a position to find with any sort of ease the very large sum of sterling required for the purchase of the Bengal and North-Western Railway. Certainly the Government were not in that position when these negotiations were entered into.

Dr. Ziauddin Ahmad: In view of the fact that this flight of gold is continuing and the inflation of the Indian money will also continue, will it not be possible for the Government to purchase the railway after a month or so, because by that time the position will be eased still further?

The Honourable Sir George Schuster: I think the Assembly may congratulate the Government on having concluded an arrangement which goes almost the whole way to meet their wishes, an arrangement which was concluded in very difficult circumstances. The Government had to negotiate in the circumstances which existed at the time, and the period for notice has already expired for the exercise of the original option. I suggest that the House may rest content with an arrangement which meets the wishes of practically all Members of the House.

"CORRESPONDENCE" COLLEGES IN INDIA.

336. ***Mr. Goswami M. R. Puri:** (*a*) How many "correspondence" colleges are there in India?

(*b*) Are any of them recognised by Government? Will they be pleased to name them?

(*c*) Do Government know that the Bennett College, Sheffield, is one of the oldest of such colleges and has very many candidates from India amongst its students?

(*d*) Are Government aware that the diplomas of this College are recognised all the world over?

(*e*) Is it a fact that some of the Bennett College diploma-holders in India are employed in Government offices?

(*f*) Do Government propose to recognise this College to safeguard the claims of Indians passing through it? If not, why not?

Sir Frank Noyce: (*a*) and (*b*). The information asked for is being collected and will be supplied to the Honourable Member in due course. It will also be placed on the table of the House.

(*c*), (*d*) and (*e*). Government have no information.

(*f*) The recognition of colleges is a matter for the consideration of Provincial Governments and universities.

ADDITIONAL DUTY REALISED ON IMPORTED FOREIGN SALT.

337. ***Mr. M. Maswood Ahmad** (on behalf of Seth Haji Abdoola Haroon): (*a*) Will Government be pleased to state how much foreign salt was imported and what was the amount of additional duty realised in Calcutta, Chittagong and Rangoon from the 1st April to the 31st December, 1931?

(*b*) How much of the additional duty was retained by the Government of India and how much was allotted to the Government of Bengal?

(*c*) How did the Government of India utilize the part of the additional duty which was retained by it? Was any part utilized in the interests of any salt source in India and, if so, how much was utilised in the interests of any inland source and how much in the interests of any sea-board source?

The Honourable Sir George Schuster: (*a*) and (*c*). Statements are laid on the table.

(*b*) The Honourable Member's attention is invited to the reply that I gave to question No. 167 asked by Mr. S. C. Mitra on the 4th February, 1932.

Statements.

(*a*) Total imports into Calcutta, Chittagong, and Rangoon of foreign salt during the period 1st April 1931 to 31st December, 1931 and the additional duty realized thereon (including the surcharge of 25 per cent., during the period the surcharge was levied) were as follows :—

	Quantity imported.	Duty realized.
	Mds.	Rs.
Calcutta	22,93,395	6,67,886
Chittagong	3,09,308	89,647
Rangoon	13,42,220	4,02,940

(*c*) The Government of India have sanctioned the following schemes so far, the cost of which will be debited to the share of the Government of India of the proceeds from the additional import duty on foreign salt :—

Schemes.	Expenditure to be incurred in 1931-32.	1932-33.	1933-34.
	Rs.	Rs.	Rs.
1. Installation of a screening and crushing plant at Khewra	..	1,53,000	..
2. Purchase of an electric chain cutter, with cable, for the Khewra Mine	..	14,000	..
3. Electric traction in the Khewra Mine	..	..	1,17,150
4. Exploration of fresh salt sources in the Makrach Circle, Khewra Mine	..	11,000	..
5. Sinking shaft and driving draft in the Gorge at Khewra	..	3,700	..
6. Conversion of 24 wooden into steel bodied tubs, at Khewra	..	2,500	..
7. Purchase of a trailing cable for the Khewra Mine	2,000	..	..
8. Topographical survey at Pachbadra	5,500	6,500	..

Mr. Pitt was deputed to investigate the possibilities of salt production in Bengal and Bihar and Orissa, and the expenses incurred on his deputation will also be debited to the Central share of the additional import duty. It will be seen that practically the whole of the expenditure will be devoted to the development of inland source.

EXPANSION OF THE KHEWRA SALT WORKS.

338. ***Seth Haji Abdoola Haroon:** Have Government arrived at any decision for the expansion of the Khewra Works with the object of supplying markets, at present supplied through Calcutta, with salt from that source and, if so, what is the policy which it has been decided to follow in connection with that source?

The Honourable Sir George Schuster: The Government, acting on the recommendation of the Salt Survey Committee, have decided to undertake a plan for increasing the production of salt from the Khewra mine and for crushing this salt so as to make it suitable for the Bengal market. This plan contemplates an increase of production step by step, each step being taken after experience has been gained with the preceding step. The first step is to increase the production from 30 lakhs of maunds per annum to 45 lakhs. The plant necessary for this is on order and is expected to be erected and working by next October. If this plan works satisfactorily, the next step will be to increase the output to 60 lakhs of maunds.

Simultaneously with this the Government have also been successful in securing concession rates of railway freight for transport of Khewra salt to Calcutta and places west of Calcutta. This will enable Khewra salt to be supplied to the zone, in which foreign salt has hitherto found a market, at competitive rates.

TRANSPORT FACILITIES FOR SALT IN KARACHI HARBOUR.

339. ***Seth Haji Abdoola Haroon:** What decision has been arrived at in connection with the transport facilities in Karachi Harbour, recommended in the interests of the local salt industry by the Salt Survey Committee?

The Honourable Sir George Schuster: After considering the recommendations of the Tariff Board, the Salt Survey Committee and the proposals of the various salt manufacturing concerns in Karachi, the Government of India came to the conclusion that the development of the Government pier at Maurypur was the most suitable proposal for early adoption. The Karachi Port Trust has been informed of this decision and requested to take action on it.

IMPORTS OF FOREIGN, INDIAN AND ADEN SALT.

340. ***Seth Haji Abdoola Haroon:** What was the total import into Calcutta, Chittagong and Rangoon of:

(*a*) foreign salt, and

(*b*) Indian and Aden salt

in 1929, 1930 and 1931?

The Honourable Sir George Schuster: A statement is laid on the table.

Statement showing the total imports of foreign, and Indian and Aden salt into Calcutta, Chittagong and Rangoon in 1928-29, 1929-30, 1930-31, and from 1st April, 1931, to 31st December, 1931.

	Foreign salt.	Indian and Aden salt.
	Mds.	Mds.
Calcutta—		
1928-29	80,64,502	51,36,724
1929-30	81,64,498	66,41,691
1930-31	1,00,55,955	56,78,679
1st April, 1931 to 31st December, 1931	22,53,370	78,01,954
Chittagong—		
1928-29	9,00,111	9,36,029
1929-30	6,76,844	7,63,704
1930-31	12,93,500	3,63,954
1st April, 1931 to 31st December 1931	515	5,57,823
Rangoon—		
1928-29	20,79,284	1,43,253
1929-30	22,32,871	3,56,629
1930-31	23,67,463	83,943
1st April, 1931 to 31st December, 1931	6,68,187	..

PRICES OF SALT IN THE CALCUTTA MARKET.

341. ***Seth Haji Abdoola Haroon:** What effect has been produced by the additional duty on salt:

(*a*) on the stabilisation of prices in the Calcutta market, and

(*b*) on the standard of prices in the Calcutta market?

The Honourable Sir George Schuster: I take it that the purport of the Honourable Member's question is to ascertain whether the operation of the Act has brought the price of salt up to a fairly stable level and if so, what is that level. The best answer I can give is to mention the course of market quotations of the leading variety of Indian fine salt,—Aden Fine. The ex-ship quotation stood at Rs. 41 per hundred maunds in March, 1931; after the Act was passed, it rose at once to Rs. 62. In May it was Rs. 63, in June and part of July, Rs. 62, thereafter to the end of September, Rs. 63, and since then, Rs. 66 per 100 maunds.

The prices of other qualities vary from these quotations in accordance with the market's estimation of the difference in quality.

EXPORT OF SALT TO CALCUTTA FROM KARACHI.

342. ***Seth Haji Abdoola Haroon:** What was the total export to Calcutta of salt from Karachi in 1929, 1930, and 1931?

The Honourable Sir George Schuster: The total quantity of salt exported from Karachi to Calcutta was:

1928-29	205,957 Maunds.
1929-30	471,797 ,,
1930-31	441,381 ,,
April, 1931 to January, 1932, that is to say for 10 months	650,948 ,,

That is to say, the rate of exports for the current year is 75 per cent. higher than in 1930-31, and nearly four times as great as in 1928-29.

Mr. G. Morgan: Can the Honourable the Finance Member say how much of fine salt and how much of Kurkutch salt was exported from Karachi in the figures he has just given?

The Honourable Sir George Schuster: I imagine that it was practically all fine salt, but I am afraid I must ask for notice if the Honourable Member wants accurate figures.

ORDERS IN CERTAIN OFFICES PROHIBITING SUBORDINATES FROM APPROACHING MEMBERS OF THE LEGISLATURE FOR REDRESS OF GRIEVANCES.

343. ***Seth Haji Abdoola Haroon:** Will Government be pleased to state:

(*a*) whether it is a fact that an order has recently been issued by the Government of India, Finance Department, to all Assistant Commissioners and Income-tax Officers for communication to their subordinates, preventing Government servants from approaching Members of the Legislatures for the redress of their grievances;

(*b*) if so, what are the reasons for adopting such a course of action;

(*c*) whether it is a fact that the above order also carries a warning to all the subordinates that any breach of it will render the offender liable to instant dismissal; and

(*d*) whether Government are prepared to consider the question of cancelling the above order?

The Honourable Sir George Schuster: (*a*) No.

(*b*), (*c*) and (*d*). Do not arise.

SENIORITY LISTS OF STAFF OF THE CHIEF ACCOUNTS OFFICE, NORTH WESTERN RAILWAY.

344. ***Dr. Ziauddin Ahmad** (on behalf of Mr. Jagan Nath Aggarwal): (*a*) Is it a fact that the seniority lists of the Chief Accounts Office, North Western Railway, which used to be published annually in the combined Audit and Accounts Offices, have not been published for the last three years? Is it a fact that a separate administration section has since then been formed?

(*b*) Is it a fact that about seven months back the Chief Accounts Officer, North Western Railway, received instructions to prepare and publish early the seniority lists of the subordinate staff, but that it has not so far been done? If so, why?

Sir Alan Parsons: (*a*) Government understand that while printing of the gradation list has been discontinued as an economy, stencilled copies of seniority lists of all staff, except accountants, have been issued for the information of the staff concerned. They are not aware whether an administration section of this office has been formed.

(*b*) Yes. On receipt of the instructions, some lists were republished, while others, not being affected, stood as before. The seniority list of accountants was prepared but it is being revised in accordance with the latest instructions on the subject.

SENIORITY LISTS OF STAFF OF THE CHIEF ACCOUNTS OFFICE, NORTH WESTERN RAILWAY.

345. ***Dr. Ziauddin Ahmad** (on behalf of Mr. Jagan Nath Aggarwal): Will Government please lay on the table a copy of the seniority lists on the basis of which present promotions, reversions or retrenchment are carried out in the office of the Chief Accounts Officer, North Western Railway, in respect of the following staff:

(i) Accountants and staff qualified to be promoted to that grade, with an explanatory note of the principles on which these have been based;

(ii) Sub-heads and staff selected to be promoted to that grade, with an explanatory note of the principles on which these have been based; and

(iii) Clerks, stating reasons where men having longer periods of service are placed junior to those having lesser services, adding in this list the names of clerks discharged since 1st January, 1931 in their suitable places?

Sir Alan Parsons: Government regret that they are not prepared to lay on the table copies of these purely departmental documents. I should explain, however, that promotions and retrenchments are not made solely on the basis of seniority.

LEAVE RULES ON THE NORTH WESTERN RAILWAY.

346. ***Dr. Ziauddin Ahmad** (on behalf of Mr. Jagan Nath Aggarwal): (*a*) Is it a fact that the new leave rules are intended to apply to those railway servants only who are appointed on or after 1st April, 1930, or who were appointed prior to that date, on the condition, that when the revised leave rules were introduced they would be brought under those rules?

(*b*) Is it a fact that the temporary or officiating (whatever Government calls them) staff appointed on or after 1st April, 1927 and taken over by the Chief Accounts Officer, North Western Railway, from the late Chief Auditor, North Western Railway, on the separation of Accounts from Audit has been refused the option to elect the old leave rules and the new rules have been applied to them? Was any undertaking to the effect that they would be governed by the new rules, when promulgated, taken from them at the time of their appointment?

(*c*) Is it a fact that the Controller of Railway Accounts refused this privilege to the said staff on the ground that if no such undertaking was taken from the said staff it was only an omission which should be rectified?

(*d*) Are Government aware that this undertaking could not be obtained from that staff, as they were under the administrative control of the Auditor General in whose department the new leave rules were not intended to be applied and do not still apply?

(*e*) Is it a fact that no such omission was taken into account in the case of the staff similarly appointed after 1st April, 1927, but confirmed before the separation of Audit and Accounts? If so, why?

(*f*) Is it a fact that the staff appointed in England before 16th May, 1930, has been allowed to elect the old leave rules, because no undertaking was taken from them at the time of their appointment that they would be governed by new rules? If so, will Government please state reasons for a differential treatment in the case of the staff of the Chief Accounts Officer, North Western Railway?

Sir Alan Parsons: (*a*) Yes.

(*b*) to (*e*). Temporary and officiating men in the old combined Audit and Accounts Office were, on appointment to the Account Office, not allowed the option to elect the old leave rules, as they had no special claim either to retention in service or to be allowed, on re-appointment in the Accounts Department, the same terms as before, and it was considered that the temporary men of the Accounts Department should not be given more liberal terms than the temporary men of other departments of the Railway. The permanent staff of the old combined Audit and Accounts Office have been allowed the option to retain their previous terms and conditions of service.

(*f*) The answer to the first part of the question is in the affirmative. The reason for a similar option not being given to the temporary Accounts staff has been given by me already.

LEAVE RULES ON THE NORTH WESTERN RAILWAY.

347. ***Dr. Ziauddin Ahmad** (on behalf of Mr. Jagan Nath Aggarwal): (*a*) Is it a fact that the Financial Commissioner, Railways, gave an assurance to the staff transferred to the Accounts Department on 1st April, 1929, that they would not be adversely affected by the separation of Audit and Accounts?

(*b*) If so will Government please reconcile the Financial Commissioner Railways' assurance with the application of less favourable leave rules to the staff of the Chief Accounts Office, North Western Railway?

(*c*) Are Government prepared to give all such staff the option to elect the old or new leave rules, from whom no undertaking at the time of their appointment was taken that they would be governed by the new rules, and refund the leave salary retrenched from that staff?

Sir Alan Parsons: (*a*) The Government are not aware of any assurance having been given in the terms stated.

(*b*) Does not arise.

(*c*) I would refer the Honourable Member to the reply I have just given to his question No. 346.

ACCOUNTANTS' POSTS ON THE NORTH WESTERN RAILWAY.

348. ***Dr. Ziauddin Ahmad** (on behalf of Mr. Jagan Nath Aggarwal): (*a*) Will Government please lay on the table the number of reserved and non-reserved posts of Accountants, Grades I and II sanctioned on the North Western Railway with the number of reserved and non-reserved Accountants actually holding these posts?

(*b*) Will Government please also state the number of such non-reserved Accountants, Grade II, working under the Chief Accounts Officer, North Western Railway, who have not so far passed the Railway Subordinate Accounts Service examination, attached to these posts, and the proportion which they bear to the total non-reserved posts actually held by qualified men?

(*c*) Will Government please state if this proportion has been authorised, and the circumstances under which so many unqualified men have been put on these posts? Is it a fact that a large number of qualified men are available for promotion to these posts?

Sir Alan Parsons: (*a*) In the Railway Accounts Department as a whole 18 posts of accountants, Grade I, and 8 posts of accountants, Grade II, are reserved. Their distribution among different Accounts Offices depends on the exigencies of the service. On the North Western Railway there are at present 14 reserved accountants in Grade I and 7 in Grade II.

(*b*) There are 13 non-reserved accountants, Grade II, of whom 7 have passed the qualifying examination prescribed for accountants of the Railway Accounts Department or the qualifying examination held by the Director of Railway Audit. Three have been exempted from passing the examination and 3 have not yet passed the examination.

(*c*) The only men who can be looked upon as unqualified are 3, who were recruited as probationary accountants at a time when there was a dearth of qualified men. Under the terms of their appointment they are required to pass the examination before confirmation within a specified period which has not yet expired. Owing to reduction in accountants' posts both in Audit and Accounts due to retrenchment, a number of qualified men are now available but they cannot be given preference over these 3 men who were definitely recruited as probationary accountants.

REVERSION TO LOWER POSTS OF OFFICIATING MEN ON THE NORTH WESTERN RAILWAY.

349. ***Dr. Ziauddin Ahmad** (on behalf of Mr. Jagan Nath Aggarwal): Is it a fact that none of the probationary or unqualified accountants was brought under retrenchment in the North Western Railway at the time of recent retrenchment, but only officiating men were reverted to lower posts, although they had in some cases worked as accountants for a period longer than the whole service of such unqualified accountants; if so, will Government please give reasons justifying wholesale retention in service of such men, when men duly qualified were reverted? Do Government propose to maintain a uniform proportion both at the time of appointment as well as retrenchment?

Sir Alan Parsons: Only three permanent posts of accountants have been abolished on the North Western Railway and only two men have been reduced, the third vacancy having been found by transferring one of the reserved accountants back to Audit. None of the probationary accountants has been retrenched, as the period within which they were required to pass the examination has not yet expired.

COMPETITIVE EXAMINATIONS FOR ACCOUNTANTS.

350. ***Dr. Ziauddin Ahmad** (on behalf of Mr. Jagan Nath Aggarwal): (*a*) Is it a fact that in the old combined audit and accounts offices there was a competitive examination—a condition precedent to the appointment of probationary accountants, and no such condition exists now in the Accounts Department, although this condition is still imposed in the Audit Department? If so, will Government please state reasons for the abolition of this condition in the Accounts Department?

(*b*) Is it a fact that some of the so-called probationary accountants have been actually confirmed in their appointments without passing the Railway Subordinate Accounts Service Examination attached to these posts? If so, why?

Sir Alan Parsons: (*a*) Yes. The Honourable Member is referred to the proceedings of the meeting of the Standing Finance Committee for Railways held on 25th April, 1931.

(*b*) The probationary accountants, who have been confirmed in appointments without passing the Railway Subordinate Accounts Service Examination, were not required to pass the examination under the terms offered to them at the time of their appointment.

UNSTARRED QUESTIONS AND ANSWERS.

RETRENCHMENT OF THE POST OF SUPERINTENDENT OF POST OFFICES AT DACCA.

37. **Mr. N. R. Gunjal:** (*a*) Is it a fact that under recommendations of the Posts and Telegraphs Retrenchment Committee one of the posts of Superintendents of Post Offices at Dacca and Narayanganj has been abolished in order to curtail the expenditure?

(*b*) Is it a fact that since the creation of the Postal administration in the district, Dacca has been the headquarters of the Postal Superintendent and the Narayanganj and other post offices in the district were under him till the year 1920, while a Superintendent of Post Offices with his headquarters at Narayanganj was created?

(*c*) Are Government aware that the Postmaster-General, Bengal and Assam Circle has ordered that the headquarters of the Divisional Postal Superintendent should be at Narayanganj instead at Dacca? If so, why?

(*d*) Will Government be pleased to give an idea of the additional expenditure in the shape of the house-rent, travelling expenses and *punkha* charges in case the headquarters of the Superintendent be transferred to Narayanganj?

(*e*) Is it a fact that the District Magistrate and the Superintendent of Police are required to consult the Postal Superintendent from time to time for administrative purposes?

(*f*) Will Government be pleased to state whether the Deputy Postmaster-General, Dacca Range, was consulted in the matter before issue of the orders?

(*g*) Is it a fact that the orders of the Postmaster-General are in modification of the Government orders for retention of the headquarters at Dacca and were issued in spite of the strong opposition of the Deputy Postmaster-General, Dacca Range?

(*h*) Is it a fact that the headquarters of the Superintendents were transferred from Chandernagore, Ranaghat and Sara, mufasil stations, to the district headquarters respectively at Hoogly, Nadia and Rajshahi for administrative purposes?

(*i*) Do Government propose to modify the orders of the Postmaster-General and issue orders for retention and location of the Superintendent's headquarters at Dacca instead of Narayanganj?

The Honourable Sir Joseph Bhore: (*a*) The Committee recommended the abolition of some Postal Divisions, and the Dacca Division was abolished to meet this recommendation.

(*b*) Yes.

(*c*) Yes. With the abolition of the Dacca Division the headquarters of the Narayanganj Division, as reconstituted, will continue at Narayanganj.

(*d*) Government have no information but as the Dacca Division has really been merged in the already existing Narayanganj Division, the additional expenditure should be very small.

(*e*) Yes, such consultation may sometimes be found to be an administrative convenience.

(*f*) Government have no information.

(*g*) There was no modification of Government orders. The Government are not aware of the views of the Deputy Postmaster-General.

(*h*) The headquarters were transferred to Howrah, Krishnagar and Rajshahi.

(*i*) No. Government do not consider it necessary to interfere with the action taken by the Postmaster-General.

HEAD POST OFFICES IN DISTRICTS.

38. **Mr. N. R. Gunjal:** (*a*) Will Government be pleased to state the names of districts where there are more than one head post office in India?

(*b*) Is it a fact that Dacca is the only district in the Bengal and Assam Circle, where there are two head post offices, one at Dacca and another at Narayanganj?

(*c*) Will Government be pleased to state the number of supervisory staff in selection grade and clerical strength in each of the Dacca and Narayanganj head post offices and the total amount of their monthly pay?

(*d*) Is it a fact that it is proposed to convert one of the two head post offices into a sub-post office and to reduce one supervisory staff in the selection grade, a certain number of clerks working in the Accounts, Bill, Sub-Account, Treasury, Money Order Check, Registration and Parcel branches? If the reply be in the affirmative, will Government be pleased to state the monthly savings that will be gained by curtailment of the staff?

Mr. T. Ryan: (*a*) The Honourable Member's attention is invited to the reply given in this House to Khwaja Abdul Karim's starred question No. 606 on the 3rd March, 1924.

(*b*) No.

(*c*) On 1st October, 1930, the position was as follows:

	Supervisory staff in selection grade.		Clerical staff in time-scale.	
	No.	Monthly pay.	No.	Monthly pay.
Dacca Head Office . .	6	1,300	55	5,575
Narayanganj Head Office .	2	540	24	2,230

(*d*) The reply to the first part is in the negative. The second part does not arise.

POST OFFICES IN THE MYMENSINGH AND DACCA DISTRICTS.

39. **Mr. N. R. Gunjal:** (*a*) Will Government be pleased to state the area and number of sub and branch post offices of each of the Mymensingh and Dacca Districts?

(*b*) Are Government aware that both in area and number of Post Offices Mymensingh is greater than Dacca?

(*c*) Will Government be pleased to state whether one of the two head post offices in the Dacca District will be abolished to curtail expenditure of public money in these days of financial crisis? If the reply be in the negative, will Government state the reasons?

Mr. T. Ryan: (*a*) The Mymensingh District with an area of 5,337 sq. miles has 59 sub and 167 branch post offices, while the Dacca District with an area of 3,932 sq. miles has 107 sub and 291 branch post offices.

(*b*) No. Mymensingh is larger in area than Dacca but has fewer post offices.

(*c*) Government are not considering any such arrangement. The existence of two head post offices is an administrative convenience, and the economies which might result from an abolition of one of them are problematical.

ABOLITION OF RANGE OFFICES AT DACCA AND SHILLONG.

40. **Mr. N. R. Gunjal:** (*a*) Will Government be pleased to state the year from which the abolition of the Range Offices at Dacca and Shillong was urged in this House?

(*b*) Is it a fact that by the abolition of the Range Offices annual expenditure of Rs. 24,000 could be saved, if the proposal was given effect to?

(*c*) Will Government be pleased to state whether orders for the abolition of the Range Offices have been issued to give effect to the recommendations of the Retrenchment Committee?

(*d*) Is it a fact that Government are still giving consideration and are in communication with the local authorities in respect of the abolition of the Range Offices?

(*e*) Do Government propose to issue immediate orders for the abolition of the Range Office in order to save expenditure of public money? If not, why not?

The Honourable Sir Joseph Bhore: (*a*) So far as I have been able to trace, the abolition of the Dacca range office was first suggested in this House in 1929 but no similar suggestion for the abolition of the Shillong Range office has yet been made here.

(*b*) Yes, approximately.

(*c*) No.

(*d*) Yes.

(*e*) Government will take any necessary action in the matter after the Local Governments, who are being consulted, have expressed their views.

LOSS BY FLOODS CAUSED TO POSTAL EMPLOYEES IN EASTERN BENGAL.

41. **Mr. N. R. Gunjal:** (*a*) Are Government aware that the flood during the last rainy season has caused severe damage to the Postal employees of East Bengal as well as to the public?

(*b*) Are Government aware that several philanthropic societies were started at different centres of the Province to render help to the distressed and the Government of Bengal extended liberal grant for mitigation of the sufferings of the distressed people?

(*c*) Is it a fact that in reply to unstarred question No. 45 in the Legislative Assembly, on the 4th September, 1928 Government stated that the Post Office Guarantee Fund was started in the year 1873 by the recovery of the fixed rate of subscription of Rs. 2 and Re. 1 per annum according to pay, with the purpose of meeting emergent expenses among which one of the items was for compensation not exceeding one month's pay to postal officials for loss of private property due to accidents, fire, floods, suffered by them while on duty?

(*d*) Is it a fact that the fund amounting to about eleven lakhs of rupees was not sufficient to meet these charges, and that it has been credited to the Post and Telegraph Capital Account with the intention that in future expenditure under the various heads enumerated above should be budgeted for in full in the working expense budget of the Department in the ordinary way?

(*e*) Are Government aware that certain Postal officials in the Dacca District were victims of the flood and they have not yet been compensated for loss of their properties?

(*f*) Will Government be pleased to state if they propose to grant help to the distressed employees out of the fund accumulated chiefly by contribution of the postal employees in the subordinate staff? If not, why not?

The Honourable Sir Joseph Bhore: (*a*), (*b*) and (*e*). Government have no information, but no applications for relief have been received from any postal officials.

(*c*) and (*d*). The facts are substantially as stated by the Honourable Member.

(*f*) No, as the Post Office Guarantee Fund no longer exists it is not available for making grants to distressed Postal employees.

LATRINE IN MENIALS' QUARTERS.

42. **Mr. N. R. Gunjal:** Has the attention of the Government been drawn to the article "Latrine in Menials' quarters" on page 14 of the Eastern Bengal Railway Labour Review of January, 1931? If so, will Government be pleased to state if any action has been taken in the matter? If not, why not?

Sir Alan Parsons: Government have seen the article mentioned. It is the practice on the Eastern Bengal Railway, as is explained elsewhere in the same number of the Review, to provide latrines not in inferior servants' quarters but in proximity to them, and Government see no reason for altering this position.

ALLEGED "PREJUDICIAL CIRCULAR" OF THE EASTERN BENGAL RAILWAY.

43. **Mr. N. R. Gunjal:** (*a*) Has the attention of Government been drawn to the article "Prejudicial Circular" on page 10 of the Eastern Bengal Railway Labour Review of March, 1931?

(*b*) If so, will Government be pleased to state what action has been taken in the matter? If not, why not?

Sir Alan Parsons: (*a*) Yes, by the Honourable Member's question.

(*b*) Government have taken no action in the matter, as it is entirely one within the competence of the Railway Administration to deal with.

REPORTED "UNREASONABLE ACTION" ON THE EASTERN BENGAL RAILWAY.

44. **Mr. N. R. Gunjal:** Has the attention of Government been drawn to the article "Unreasonable action" which appeared on page 10 of the Eastern Bengal Railway Labour Review of March, 1931? If so, will Government be pleased to state if any action has been taken on the matter? If not, why not?

Sir Alan Parsons: The reply to the first part is in the affirmative. As regards the second part, the matter is within the competence of the Agent, Eastern Bengal Railway, to decide and I am bringing it to his notice.

FREE RAILWAY PASSES ON FOREIGN RAILWAYS.

45. **Mr. N. R. Gunjal:** Has the attention of Government been drawn to the article "Foreign Railway free passes" which appeared on page 20 of the Eastern Bengal Railway Labour Review of July, 1931? If so, will Government be pleased to state if action has been taken on the complaint? If so, what? If not, why not?

Sir Alan Parsons: The Honourable Member's question has brought to the notice of Government the article referred to. Government do not consider that any action on their part is called for, as the suggestion in the article is that the Indian Railway Conference Association should take up the matter.

COMPLAINTS ABOUT A WAITING ROOM FOR RELIEVING STAFF ATTENDING THE DISTRICT TRAFFIC SUPERINTENDENT'S OFFICE, CALCUTTA.

46. **Mr. N. R. Gunjal:** (*a*) Has the attention of Government been drawn to the article "Waiting Room for relieving staff attending District Traffic Superintendent's Office, Calcutta" which appeared on page 4 of the Eastern Bengal Railway Labour Review of August, 1931?

(*b*) If so, will Government be pleased to state whether any action has been taken by the authorities to remove the complaints? If so, what? If not, why not?

Sir Alan Parsons: (*a*) Yes, by the Honourable Member's question.

(*b*) Government do not propose to take any action as the matter is one within the competence of the Eastern Bengal Railway Administration to deal with.

DAILY ALLOWANCE OF ENGINEERING SUBORDINATE STAFF OF THE EASTERN BENGAL RAILWAY.

47. **Mr. N. R. Gunjal:** (*a*) Will Government be pleased to state if it is a fact that the daily allowance of engineering subordinate staff of the Eastern Bengal Railway has been curtailed?

(*b*) If so, will Government be pleased to state what was the allowance allowed before and what is now being drawn by them?

(*c*) Has any memorial been received by the Railway Board from them? If so, what action has been taken on it?

Sir Alan Parsons: (*a*) and (*b*). Possibly the Honourable Member is referring to the decision that all Engineering subordinate staff should get travelling allowance under the conditions formerly applicable to Inspectors of Maintenance, *i.e.*, when absent from headquarters for more than four hours between 9 P.M. and 5 A.M. Previously they drew travelling allowance when absent from headquarters for more than eight hours whether during day or night.

(*c*) Memorials have been received from staff on the Eastern Bengal and North Western Railways and are under consideration.

QUARTERS OF THE EASTERN BENGAL RAILWAY STAFF.

48. **Mr. N. R. Gunjal:** (*a*) Will Government be pleased to state if it is a fact that the Accounts Officer, Eastern Bengal Railway, addressed all the Executive Engineers of that railway to redistribute suitably the quarters so that monthly returns from house rent would come as nearly as possible to the assessed rent?

(*b*) If so, will Government be pleased to state if it is a fact that the District Traffic Superintendent, Eastern Bengal Railway, Calcutta, still allows 7 men, who are supposed to be provided with two-roomed quarters, to occupy four-roomed quarters Nos. 107T, 86A, 87A, 85A and 85B, thus making the railway lose Rs. 35 a month?

(*c*) Is it a fact that staff drawing Rs. 35 or less have been discharged on account of the fall in the income of the Railway?

(*d*) If so, do Government propose to adjust the matter so that the Railway may not further lose the income from house rent?

Sir Alan Parsons: A number of employees drawing Rs. 35 or less per mensem have been discharged on the Eastern Bengal Railway. Government have no information with regard to the other matters mentioned in the Honourable Member's question, which the Agent is competent to deal with. They are sending a copy of the question to him for any action he may think necessary.

RECRUITMENT OF STAFF IN STATE RAILWAY ACCOUNTS OFFICES.

49. **Mr. N. R. Gunjal:** (*a*) Is it a fact that two competitive examinations for the recruitment of subordinates in State Railway Accounts Offices were held, one in April, 1929 and another in October, 1929?

(*b*) Will the Hon'ble Member for Railways be pleased to state (i) the number of probationers appointed on the result of the above examinations, who are at present attached to the East Indian Railway Accounts Department, (ii) the number of such probationers confirmed until now in the East Indian Railway; (iii) the number of temporary clerks, other than probationers, in the East Indian Railway Accounts Department who are now entertained against permanent vacancies, and (iv) the approximate date by which the 'Seniority List' pertaining to the cadre of the East Indian Railway Accounts Department is likely to be published?

Sir Alan Parsons: (*a*) Yes.

(*b*) The information is being collected.

CONFIRMATION OF RAILWAY ACCOUNTS PROBATIONERS.

50. **Mr. N. R. Gunjal:** (*a*) Is it a fact:

(i) that in accordance with the orders of the Controller of Railway Accounts the probationers mentioned in the preceding question are senior to all other classes of temporary staff and have a prior claim to confirmation;

(ii) that the "Letters of Appointment" of the probationers contain a distinct clause that they will be kept on probation for a period of one year only; and

(iii) that Mr. Sankara Iyer, late Chief Accounts Officer, East Indian Railway, gave a distinct ruling on the eve of his transfer to the effect that the publication of the Seniority List has got nothing to do with the confirmation of the

probationers and as such they are entitled to be confirmed on the strength of the orders of the Controller of Railway Accounts?

(*b*) If answer to part (*a*) item (iii) be in the affirmative, will Government be pleased to state whether these probationers will be confirmed with retrospective effect?

Sir Alan Parsons: (*a*) (i) The probationers mentioned are, for purposes of seniority, on an entirely different list from temporary staff, and have a prior claim to confirmation.

(ii) The letters state that they will be on probation for one year: but confirmation must of course depend on the occurrence of vacancies.

(iii) Government are not aware what ruling, if any, the late Chief Accounts Officer of the East Indian Railway gave; but the publication of a seniority list could only affect the order, *inter se*, in which probationers are confirmed.

(*b*) These probationers can only be confirmed from the dates on which vacancies occur.

COMPLAINT ABOUT THE TREATMENT OF SUBORDINATES AT THE CAWNPORE CENTRAL STATION.

51. Mr. N. R. Gunjal: Is it a fact that for some time past complaints were made of the treatment of subordinates at the Cawnpore Central Station? If so, was any enquiry made and with what result? Have any of those men who complained been discharged on the ground of superannuation? Is it a fact that on the gratuity bill of any such discharged men on the ground of superannuation there appears the remark "good, efficient, faithful and continuous"? If so what is the reason for such discharge?

Sir Alan Parsons: Government have received no such complaints.

ALLOTMENT OF GOVERNMENT QUARTERS IN NEW DELHI.

52. **Pandit Satyendra Nath Sen:** (*a*) Is it a fact that the major portion of Government quarters in New Delhi are occupied by the local P. W. D. men?

(*b*) Is it a fact that several clerks' quarters are occupied by non-authorised and non-entitled men such as contractors, carpenters, Railway Clearing Office men, Municipal Office men, etc., which resulted in additional cost on the part of Government by paying separation and conveyance allowances, etc., year after year?

(*c*) Are Government aware that several quarters are being rented on higher amounts to outsiders every year by the low-paid allottees not actually in need of quarters or residents of Delhi? If so, what steps do they propose to take to remedy this?

(*d*) If replies to parts (*a*), (*b*) and (*c*) above be in the negative, will Government be pleased to state what objection, if any, there may be to distribute these quarters permanently to all Government Departments located in New Delhi?

The Honourable Sir Joseph Bhore: (*a*) No.

(*b*) Government have no information on the subject.

(*c*) No. The second part of the question does not arise.

(*d*) Government do not consider that the method suggested by the Honourable Member is as good or as fair to the majority of the clerks as the system now in force.

CLERKS QUARTERS IN NEW DELHI.

53. **Pandit Satyendra Nath Sen:** Will Government be pleased to furnish the House with a detailed and complete statement showing separately the total number of clerks' quarters in New Delhi (except the Post and Telegraph Department quarters) as detailed below?—

Type of Quarter.	Total No.
'A' Type (orthodox)	
Do. (un-orthodox)	
'B' Type (orthodox)	
Do. (un-orthodox)	
'C' Type (orthodox)	
Do. (un-orthodox)	
'D' Type (orthodox)	
Do. (un-orthodox)	
'E' Type (orthodox)	
Do. (un-orthodox)	
Chummery (orthodox)	
Do. (un-orthodox)	

The Honourable Sir Joseph Bhore: A statement giving the required information is laid on the table.

Statement showing the number of Orthodox and Un-orthodox Clerks' Quarters in New Delhi.

Type.	Classes.							Remarks.
	A	B	C	D	E	Single.	Total.	
Orthodox	18	70	238	970	118	104	1,518	
Un-orthodox	55	62	66	50	..	72	305	

CLERKS' QUARTERS IN NEW DELHI VACATED BY RETRENCHED CLERKS.

54. **Pandit Satyendra Nath Sen:** Will Government be pleased to furnish the House with a detailed and up-to-date statement showing separately the total number of each type of clerks quarters in New Delhi (except Post and Telegraph Department quarters) vacated by the retrenched clerks of each department and how those vacant quarters have been or are being re-allotted to others?

The Honourable Sir Joseph Bhore: Government do not propose to have the information compiled as the amount of labour involved in doing so would be incommensurate with the benefit attained.

ALLOTMENT OF QUARTERS IN NEW DELHI TO CLERKS OF THE LOCAL PUBLIC WORKS DEPARTMENT.

55. **Pandit Satyendra Nath Sen:** Will Government be pleased to furnish the House with a copy of the particular para. of rules and orders, if any, under which the clerks, etc., of the offices (except the Secretariat and its attached offices) such as local P. W. D. offices have been declared eligible to Government quarters in New Delhi and are given preference over the assistants and clerks of the Imperial Secretariat and its attached Departments?

The Honourable Sir Joseph Bhore: Government are not aware of the existence of any such rules or orders.

ALLOTMENT OF QUARTERS IN NEW DELHI TO TEMPORARY CLERKS.

56. **Pandit Satyendra Nath Sen:** Will Government be pleased to state if temporary clerks in the Government offices at New Delhi are entitled to, and have been provided with, quarters in preference to permanent clerks; if so, state reasons; and if not, why almost all the temporary clerks, etc., (except those who are residents of Delhi) employed in local P. W. D. offices were, and have been, provided with quarters?

The Honourable Sir Joseph Bhore: No. Such clerks in the Public Works Department as have been allotted quarters have been given them in the ordinary manner after application.

CLERKS' QUARTERS IN NEW DELHI REQUIRED BY THE VARIOUS DEPARTMENTS.

57. **Pandit Satyendra Nath Sen:** (*a*) Will Government be pleased to furnish the House with a foolproof statement, verified by each Department concerned, showing separately the total number of each type of clerks quarters (except Post and Telegraph Department quarters) required by each Government Department in New Delhi during the current winter season 1931-32 as detailed below?

Statement showing requirements and allotments of Clerks' quarters in New Delhi during the winter season, 1931-32.

Department.	Number of quarters required.												
	'A' Orthodox.	'A' Un-orthodox.	'B' Orthodox.	'B' Un-orthodox.	'C' Orthodox.	'C' Un-orthodox.	'D' Orthodox.	'D' Un-orthodox.	'E' Orthodox.	'E' Un-orthodox.	Chummeries Orthodox.	Chummeries Un-orthodox.	Total.
F. & P.													
Home													
Finance													
Commerce													
Legislative Assembly													
Army													
E., H. & L.													
D. G., I. M. S.													
Archæology													
Imperial Record													
I. & L.													
D. G., P. & T.													
Indian Stores													
Civil Aviation													
Controller of Printing													
A. H. Q.'s Branches													
R. A. F.													
Railway Board													
Railway Audit													
Railway Account													
M. A. G.													
A. G., C. R.													
C. B. R.													
Local P. W. D. & so on.													

(*b*) Will Government please furnish a statement in the same form showing the actual number of each type of quarters allotted to each Government Department in New Delhi for the winter season 1931-32?

The Honourable Sir Joseph Bhore: Government do not propose to have the information compiled as the amount of labour involved in doing so would be incommensurate with the benefit attained.

STATEMENT BY MR. PRESIDENT ON MR. C. S. RANGA IYER'S MOTION FOR ADJOURNMENT *RE* PUBLICATION IN THE PRESS OF THE PROCEEDINGS OF THE LEGISLATURE.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. With reference to the adjournment motion of which the Honourable Member, Mr. Ranga Iyer, gave notice, the Honourable the Law Member approached the Chair and represented that he had made a previous engagement to leave Delhi last night and whether the Chair would agree to receive his considered opinion in writing instead of his being present here.

[Mr. President.]

The Chair accepted the request and received the following opinion in writing from the Honourable the Law Member on the issue which was referred to him yesterday. It is in the form of a letter addressed to the Chair.

"Sir, with reference to the inquiry which was made of me this morning, I beg to say as follows—that, in my opinion, the ordinances have made no change in the ordinary law of the land in the matter of publication in the public press or otherwise of the proceedings of the Legislature."

That being so, the whole object of the adjournment motion is met and nothing further need be said. I trust the opinion will be considered satisfactory that no change has been made in the publication of the proceedings of the Assembly in the public press by the promulgation of the Ordinances.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Is that the opinion of the Government?

Mr. President: This is the opinion of the Honourable the Law Member of the Government of India.

STATEMENT OF BUSINESS.

The Honourable Sir George Rainy: With your permission, Sir, I desire to make a statement about the course of Government business in the week beginning Monday, the 15th February. On that day, Sir, the order of business will be as follows:

(1) Resumption of the debate on the motion to refer to Select Committee the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes.

(2) Motions to take into consideration and pass the Bill to define and amend the law relating to partnership, as reported by the Select Committee.

On Wednesday any business unfinished on Monday will be taken in the order shown on Monday's paper and thereafter—

(1) A motion will be made for leave to introduce a Bill to amend the Workmen's Compensation Act.

(2) The debate on the Public Account Committee's Report will take place on the motion that the Report be taken into consideration.

The next business will be the voting on excess grants and supplementary grants.

THE HINDU MARRIAGES DISSOLUTION BILL—*contd.*

Mr. President: Further consideration of the motion moved by Sir Hari Singh Gour on the 4th February.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadan Rural): Sir, I beg to resume my half-finished speech which I delivered on

the 4th February to a very thin House at the fag end of the day. I may remind Honourable Members that I am not moving my motion for circulation, but am proposing that the Bill should be thrown out. I may also remind the House that this obnoxious Bill is the ghost of the old Bill which died an unnatural death in 1928. I hope Honourable Members, after listening to what I have to say, will agree with me that this ghost, instead of being given any further indulgence should be beaten with a big stick, as was very rightly put by my Honourable and revered friend Raja Bahadur Krishnamachariar, when a similar motion was brought before the House last year by the Mover of the present motion. Sir, regarding the opinions from which I quoted last time, I would like to remove one misconception. These opinions were collected on a previous occasion, not during the current term, but during the last term, and therefore it is not correct to hold that these opinions were distributed to Honourable Members and that they are in possession of them. By quoting from those opinions and also from the Shastras, I showed to the House last time that the views held by the Honourable the Mover are wrong and that the statements made in the Statement of Objects and Reasons are inaccurate and misleading. By quoting from Narada himself I showed that a Hindu marriage consists of two parts, firstly *barana* or choice of the bridegroom, which is also called *vagdana* or formal betrothal, and the second part is *panigrahana*, which means the joining of the hands of the bridegroom and the bride.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): More correctly *pánipîdana.*

Pandit Satyendra Nath Sen: Yes, that is the same thing, that is only a synonym. Of these two parts the first, namely, betrothal or *barana* can be altered, but the second cannot. Of the verses quoted from Narada I showed last time that three of them, namely, verses 8, 19 and 37 speak of a very careful examination of the prospective bridegroom, and the rest, namely, verses 16, 24 and 97 speak of the betrothal only. But for this interpretation the verses would become nonsensical. Verse 24 will at once prove my contention. It says:

"Let the maiden wait till her menses have passed three times, and then choose another bridegroom."

I said last time that if this view is not taken, then most of the Honourable Members of this House would come under the purview of this clause. Sir, the translation may be a bit ambiguous as given by Mr. Jolly, but the original will make everything clear. *"Trin ritun samatikramya kanyanyan varayed varam".* The word used is *kanya* which means an unmarried girl and not a married girl, and so it cannot but refer to betrothal and not to the final performance of marriage. Then I come to the word *punarbhu* which has been translated as remarriage. The original word as used by Vasishtha and all other law-givers is *punarbhu*, which is a technical term and does not admit of a strictly accurate translation. The authors have mentioned this case as simply a case of probability; Vasishtha and all other law-givers have mentioned many other cases of such probabilities. They have mentioned also *kaninaputra* and *sahodaputra. Kaninaputra* is the son of a *kanya*, that is, of an unmarried girl, and *sahodaputra* means the son of a pregnant bride. These are all probabilities only. It does not follow that these cases are approved or encouraged by the Shastrakaras. There is nothing to show that Vasishtha looks upon these cases with any

[Pandit Satyendra Nath Sen.]

amount of favour. As to the position and status of a *punarbhu*, I have already stated that the food served by her is not acceptable, and if any one eats the meal served by her, he will become liable to a penance called *chandrayana*. When I was almost finishing the criticism of the objects and reasons of this Bill last time I received two interruptions. One was from my Honourable friend Mr. Joshi who observed, "These are grounds as given by Sir Hari Singh Gour", thereby implying that there might be some other reasons, and also implying at the same time that all those grounds and reasons have been refuted successfully. The other interruption was a very encouraging interruption—I should say—from my Honourable friend Nawab Sir Abdul Qaiyum. He observed "Why not take all these precautions before the marriage has been actually performed?" A truer view of the thing could not be taken. This is exactly the view which has been taken by our Shastrakaras as well as their translators and commentators and has been accepted by the entire Hindu public.

Then I come to the grounds for dissolution of marriage. The grounds are three, namely, impotency of the husband, his imbecility, and the fact that he is suffering from sanious or ulcerous leprosy. But these grounds are extremely vague and they will give rise to various complications, social and legal. These have been discussed by some of the persons who have given their opinions on this Bill. I discussed these last time and I need not repeat my arguments. Our sages were certainly not heartless. They could foresee, as my Honourable friend does, that there might be some extreme cases which might apparently justify a dissolution. They were not fools and they were not heartless. Their heart was full of the milk of human kindness, but their view was that sexual pleasure is not the only object of life. Even taking the most perverse view of the case, one is bound to admit that at the cost of one or two cases, imaginary or real, our sages have advised us to stick to the lofty ideal which is nowhere else to be found in the world but which is now going to be accepted by other societies. Last time I was referring to the Marriage *mantras* which show that a complete unification of body and heart of the bridegroom and bride takes place. The bridegroom says, "Let your heart be mine and mine be yours". The bride utters the *mantra* looking at the pole star—"*Dhruvaham patikule bhuyasam*"—may I remain firm to the family of my husband like the pole star; also, "*Arundhativavaruddham asmi*"—I should confine myself to the family of my husband like Arundhati who was the faithful wife of sage Vasishtha, the very sage whom the Honourable Member has quoted.

Mr. N. M. Joshi (Nominated Non-Official): What about the man?

Pandit Satyendra Nath Sen: He is also bound by the marriage tie. (*An Honourable Member*: "He can marry as many wives as he likes.") But he does not even abandon his former wives except on special grounds. These solemn promises are made in the presence of the holy fire and in the presence of *Salagram*, which is the holiest of the deities. Does the Honourable Member suggest that we should fall from the lofty ideal which has maintained the Hindu society aright for thousands of years? How can a wife think of dissolution? Speaking from the religious point of view, she is half of the entire body, and some people say the better half of the [illegible] "*Sarirardham Smrita jaya*", and it is for this reason that Manu has

distinctly said "*Na nishkraya-visargabhyam bhartur bharya vimuchyate*" —neither by sale nor by repudiation can a wife be released from her husband. She is completely united to the husband.

An Honourable Member: What about the man?

Pandit Satyendra Nath Sen: The something—no dissolution . . . . . .

Mr. President: The Honourable Member has been giving an elaborate lecture on the Shastras and I hope that no Honourable Member will interrupt him in his learned address.

Pandit Satyendra Nath Sen: This view has been repeatedly held in the Mahabharata and other Shastras. The Mahabharata says:—"*Eka eva patir naya yavajjivam parayanam*"—A woman can have only one husband as her sole support during her whole life. Honourable Members will remember in this connection the well known line from the Mahabharata—"*Sakrit kanya pradiyate*" —A girl is given away in marriage only once and not more than once. Can any Shastra be clearer than this? In spite of these clear utterances it has been a fashion for some to insist on their perverse views. I have called it a fashion. I should rather call it a belated fashion. This dissolution or divorce is being discarded in the West and it has been completely abolished in some parts of the Western countries. I should like to read a few lines from the *Englishman* of the 14th February, 1925:

"No divorce in Free State. Marriage is a sacrament in Ireland. On Mr. Cosgrave's motion the Dail has adopted new standing orders depriving persons of the power of securing divorce in the Free State and of the rights to re-marry. Mr. Cosgrave said: The majority of the Irish people regarded marriage as a sacramental tie incapable of dissolution."

And this is what Judge Lindsay speaks disparagingly of his own country —U. S. A.:

"Five years ago dissolution was one to four; now two to four. . . . .They (*i.e.*, the figures) are approximately correct for many cities of the United States."

If this is the view taken by Western countries, should we Hindus, the sons of Hindustan, the land of Sita and Savitri, try to pass a Bill which will shake the very foundation of Hindu society by striking at the very first principle of a Hindu marriage? In this connection I am tempted to quote only one other opinion which gives the views of some of the Western thinkers in this connection. They are not orthodox Hindus. One of the gentlemen in giving his opinion says:

"If the Hindu is to be taunted for holding this old-fashioned view of marriage, he has the satisfaction of erring in good company. Mr. H. Slesser who was the Solicitor General in the Labour Government of 1924 says that 'Chastity which is the discipline of sexual life has been corrupted by Divorce.' Now, Mr. Slesser is not an orthodox reactionary Brahmin who is the target of the sneers and taunts of our social revolutionaries."

Then again, "it is a well known fact that the late Mr. Gladstone strongly opposed the English (Divorce) Act of 1857, as subverting the principles of

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Christianity and morality". That Gladstone's apprehension was well founded is proved by the following words of Lord Chief Justice Campbell which Sir Hari Singh Gour and his allies should deeply ponder over:

"I have been sitting two days in the Divorce Court and I am afraid of the monster I have called into existence. There are now 300 cases of divorce pending. This is rather appalling. There seems some reason to dread that the prophecies of those who opposed the change may be fulfilled by a lamentable multiplication of divorces and by the corruption of public morals."

To quote the Rev. Graham again:

"This one breach in the old law of indissoluble marriage has reacted disastrously on the security of home-life; and experience seems always to show that when once divorce is made possible on any pretext whatsoever, the percentage of divorces will increase year by year continuously. None but those who are obsessed with a spirit of social vandalism can view such a situation with equanimity."

Sir, before I conclude, I should like to remove at least one misconception of the Honourable the Mover. Speaking on this Bill in 1928 he observed:

"The learned commentator, *e.g.*, the learned Dr. Bühler, the translator of Manu, cites a long series of quotations from the sacred writings of Gautama, another writer of great repute in Chap. XVIII, verses 15 and 17 and Vasishtha Chap. XVII, paras. 75 and 80, it is explicitly written, and Kullukabhatta (he says Kalukbhat—perhaps he does not know accurately the exact name of the commentator), the reputed commentator of Manu, who is recognized by the orthodox and the reformers alike as the most authentic commentator of this great work of Manu, points out that this separation of husband and wife *ipso facto* dissolves the marital tie, and after the periods mentioned by Manu the wife is free to remarry."

Sir, here is Gautama and here is Vasishtha and here is Kullukabhatta. I challenge the Honourable the Mover and say that none of these says what has been ascribed to them by the Honourable the Mover. The original verse of Manu to which he refers is from Chapter IX, sloka 76. I shall give you the original verse. Though the translation is clear he has misunderstood it. The verse is:

Proshito dharma-káryártham pratikshyoshtannarah samáh,
Dharmártham trín Yashortham vá Kámártham trínshu vatsarán.

"If the husband went abroad for some sacred duty, she must wait for him 8 years. If he went to acquire learning or fame, six years. If he went for pleasure, three years."

On this he adds a footnote:

"Gaut. XVIII, 15, 17; Vas. XVII, 75—80, Kulluka, Náráyana and Raghavánanda declare that after the expiration of the terms mentioned, the wife shall go to seek her husband."

Now the difficulty lies in this expression, "to seek her husband". The translator does not say that she should seek "a" husband but that she should seek "her" husband. This has been misunderstood by the Honourable the Mover as meaning that she must seek another husband. (*An Honourable Member*: "But supposing his whereabouts are unknown"?) The commentator Kullukabhatta says:

"*Proshitah patih ashtau varshani patnya pratikshaniyah úrddhwám pátisannidhim gachchhet.*"

i.e., after the period she should go to her husband.

This actually occurs in Vasishtha, and Kullukabhatta quotes him and makes this statement. (*An Honourable Member*: "But if his whereabouts are not known?") Then the injunction contained in the preceding sloka will hold good, *viz.*:

"Jivet silpair agarhitaih."

—"She should live by pursuing blameless occupations." (*An Honourable Member*: "That is not in the original text.")

Mr. President: Order, order. I appeal once more to Honourable Members not to interrupt the learned lecturer.

Pandit Satyendra Nath Sen: As this has been challenged, I shall give you, Sir, the original verse. Here is Manu:

"Vidhaya proshite vrithim jivenniyamam asthita.
Proshite tvavidhayaiva jivechchhilpair agarhitaih."

"If the husband went on a journey after providing for his wife she shall subject herself to restraints in her daily life; but if he departed without providing for her, she must subsist by pursuing blameless manual work."

Sir, the Shastras are to be taken as a whole. I have already told you that the grounds given are vague and even taking those disabilities to be of the extreme type, the Shastras won't allow a dissolution. They have got very clear utterances on such points as impotency and so forth. Bhargaviya Karmavipaka says:

Kliram va dushitam vapi vyadhitam vriddham eva va,
Susthitam dusthitam vapi patim ekam na langhayet."

"The husband, be he impotent, sickly or old, well-circumstanced or badly-circumstanced, should not be abandoned by his wife." (Hear, hear.)

And this is from Parásara, who is held in the highest esteem in Kaliyuga:

Daridram vyádhitam murkham bhartturam yá na manyate
Sá Mrita jáyate vyáti vaidhavyam cha punah punah."

'A wife who does not care for such a husband will suffer widowhood in her successive rebirths."

Then, again, this is from one of the Puranas:

"Kutsitam pátitam múdham daridram roginam jadam
Kulajá vishnutulyam cha Kántam pashyati santatam."

'Jada' in the sloka is the synonym for 'imbecility'. I could multiply texts like these but I do not wish to take much time of this Honourable House and I shall conclude very soon. (*An Honourable Member*: "How long"?) I will not take more than five or six minutes more. (*Some Honourable Members*: "Go on, go on.") Sir, as a member of the Working Committee of the All-India Varnashram Samgha, I think it my duty to read a few lines from a petition which has been submitted to this Honourable House by that body:

"The said Bill is subversive of the religious notion of a Hindu marriage which is known as a sacrament which can never be dissolved. Your petitioners submit that Dr. Sir Hari Singh Gour has not studied the sacred literature of the holy Sanatan Dharma (Hear, hear) nor has he any acquaintance with or respect for its daily practice as traditionally interpreted and followed. (Hear, hear.) He has no genuine regards for the ancient Hindu Vedic religion (Hear, hear), nor has he any mandate from any body to introduce Bills of this nature."

An Honourable Member: Not even from the ladies?

Pandit Satyendra Nath Sen: No. I quoted their opinion last time. "Neither morally nor as a matter of convention is it right that he should be allowed to interfere in Hindu religious matters against the oft-reiterated policy of non-interference regarding them". Sir, I hope this Assembly will not wound the religious feelings and sentiments of the Sanatanists who, though they are not so vocal as some of our other friends, form the bulk of the Hindu population. Sir, it was only the other day—in September 1929—that this Assembly gave offence to the dumb millions including the orthodox Pandits—who are no better than the dumb millions nowadays —by making an outrageous encroachment upon the same sacrament of marriage. You can take it from me that a reaction has already set in. A huge disquietude is brewing in the country. If it is the will of the Honourable Members to go on committing mischief in this way, there will be such an upheaval in the country as none will be able to cope with. Sir, I have finished. I hope Honourable Members will combine—I hope the Government will also combine with us—in throwing out this Bill.

Mr. N. M. Joshi: Sir, I rise to support the motion made by Sir Hari Singh Gour. His Bill seeks to remove to a small extent and, in my view, in a very imperfect manner, one of the unjustifiable restraints upon the personal liberty of those people who are born Hindus and who are regarded as Hindus. Sir, marriage, in order to be happy, must be a voluntary partnership, and married life also to be happy must continue to be a voluntary partnership. When the partnership ceases to be voluntary it becomes unhappy. No man has a right to compel people to remain in partnership and to make them unhappy in this respect. I feel, Mr. President, that to compel people to remain in a married state of life when that state is not a happy state, is a positive cruelty to the parties to the marriage. I therefore feel that every freedom should be given to the parties to the marriage whenever they think fit, to dissolve the partnership. From that point of view the Bill introduced by Sir Hari Singh Gour is not perfect and does not satisfy people like me.

Hindu society, Mr. President, is, as we all know, partial to man and it has always tried to put restraints upon women, whereas man has been left free without similar restraints. In the case of marriage this is especially true. A man in the Hindu society can marry any number of wives, but a woman, as my learned friend told us, must tie herself down to one husband under all circumstances. It is true that both man and woman can under certain circumstances get a judicial separation from each other. That is a small mercy of the present law, but in the case of the man, whether he gets judicial separation or not, when he does not like a wife, he can take another wife. In the case of a woman, although she may get judicial separation, she is not permitted to marry again. I think this is a great injustice committed upon women by the Hindu community, and the sooner we get rid of this the better.

Sir, I wish to make one thing clear. The Honourable Member who gave us a learned exposition of the Hindu Shastras, told us that we should not offend the orthodox community. Let me tell him that we have absolutely no desire to offend the orthodox community at all. This Bill does not compel the orthodox community to have divorce. No orthodox

woman will be compelled to apply for a divorce. Therefore, we are not offending the feelings of the orthodox community at all by this Bill. The Bill is a permissive Bill. Those who want to seek divorce will be given the divorce and I do not therefore understand why the orthodox community should at all be offended when people who like to get divorce get it. Nobody is compelled. He also gave instances of other countries where the freedom may have been abused, but it is not a good argument that, because some people abuse freedom, therefore there could be no freedom at all. We know that some people steal, but we do not put every one for that reason behind the prison bars. If we give freedom, there will be some people who will abuse it, but that is not a good reason why all people should be deprived of their freedom. Moreover, although we may permit divorce or dissolution of marriage, that does not mean that everyone is going to seek divorce, and this does not happen in any country. As a matter of fact, when we take a flat and become accustomed to it, we do not change it in a light-hearted manner. On the contrary, we suffer some inconvenience and stay in the same flat. Who, therefore, would think of seeking a divorce in a lighthearted manner?

Mr. President, Pandit Satyendra Nath Sen, who opposed Sir Hari Singh Gour's motion quoted Shastras. My view is that these Shastras or Hindu scriptures were made thousands of years ago. I do not know whether these regulations made by the scriptures were suitable for the ancient times or not. I am not a learned student of history. But I know this that these regulations do not wholly suit the present times. There are some regulations which are handed down to us from ancient times which are found to be quite suitable for our present times and we should keep them. But there are some other regulations which are unsuited for our present times. Therefore, we must either revise these regulations or abrogate them wholly. Sir, I am not one of those people who would allow himself to be guided by regulations made thousands of years ago without inquiring whether these regulations suit our present necessities or not.

The Honourable Member who opposed the motion said that we should take precautions before the marriage. People generally do so. When parties marry, they make it their business to see whether they are suitable for each other or not, but as human beings we are liable to err and it should be open to us to correct our mistakes. Moreover, although we may be very careful before the marriage and take all precautions, yet some circumstances do arise after the marriage which necessitate the dissolution of the marriage. So it is no use simply saying that we should be very careful before the marriage. The Honourable Member who opposed the motion said that we should keep a lofty ideal of chastity before our minds. There is no one in this House who will not keep that lofty ideal before his mind but a forced chastity is not of much moral value. If chastity is to have moral value it must be a voluntary one. Leave the woman free either to have a divorce or not to have divorce.

12 NOON.

Pandit Satyendra Nath Sen: Do away with the marriage laws altogether. Let them be free.

Mr. N. M. Joshi: When that question is brought before the House, I shall express my opinion on that question. I am not here to-day called

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upon to discuss that question. I am called upon to discuss the question whether dissolution should be allowed in certain circumstances or not. I therefore think that, although every one of us entertains and cherishes a lofty ideal of chastity, yet we are not prepared to compel people to remain in a married state against their wishes when they find that the married state does not conduce to their happiness. The Bill put forward by Sir Hari Singh Gour, as I said in the beginning of my speech, does not go far enough. He is trying to please the orthodox community, but he will not succeed in his attempt. He will not get the support of the orthodox community and people like me who will vote with him are not fully satisfied. Therefore I feel that when he makes his next attempt at social reform, he will take a lesson from this fact that the orthodox community will oppose anything that he brings forward, whether there is support from the Shastras or not, because Shastras are so numerous that it is easy for any one to get some authority for his view from some old book. I therefore hope that when the Honourable Member next brings forward another measure of social reform, he will see that it satisfies the minds of people who look at questions from a rational point of view without taking the trouble of pleasing the orthodox community. I hope the House will pass this motion.

Mr. B. Sitaramaraju: (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): I beg to move:

"That the Bill be re-circulated for the purpose of obtaining further opinion thereon of the Hindu community including men and women of that community and also including their organisations."

In moving this amendment I have taken note of the fact that this Bill was once circulated for public opinion, but that was some years ago and the opinion then gathered was before the House, when the House was given an opportunity to discuss that Bill. On that occasion, Sir Hari Singh Gour made the following statement when he went through his Bill:

"I do not wish to press this motion upon the House if the bulk of my countrymen are opposed to this. I tabled this Bill with the concurrence of a large number of my friends, and if I should name them, they would probably say that they have since changed their minds, but I can assure you, Sir, that there is a large body of public opinion behind this measure."

Then he says:

"My Honourable friend (Lala Lajapati Rai) is perfectly right that the time is not yet ripe, and because that time is not yet ripe I take his advice and I will renew the measure on a more propitious occasion."

In fact, he has not made any changes even in the Objects and Reasons of the Bill notwithstanding all that happened then and thereafter. My Honourable friend, the Leader of the Nationalist Party, in his opening speech remarked, however, that public opinion in this country has changed since he last introduced that Bill, and womanhood in this country has sufficiently advanced now and that he is assured that a large body of public opinion will be behind this measure if it is passed into law. He also mentioned as an instance the Divorce Act passed in the Baroda State. My friend is thinking of the Divorce Act of Baroda. Some of my other friends are thinking of the reception given in the country to

the Sarda Act. I, for one, cannot say whether public opinion to-day is any more favourable than it was when Sir Hari Singh Gour introduced that Bill. However I say that this is entirely a matter which is the concern of the people who will be directly affected by this Bill. This Bill is called the Hindu Marriage Dissolution Bill. but it does not apply, nor is it intended to apply to all Hindus, because there are several communities among Hindus who have wider powers for divorce than those provided under this Bill, and that fact was taken note of by the Mover of this Bill when he mentioned in clause 3 that this Bill was not intended to restrict the rights of dissolution of marriages otherwise existing. It is intended to apply to a particular section of people of the Hindu community who consider their marriages indissoluble. The reason for saying that this Bill is intended to apply to that section also has been stated by the Mover of the Bill. The last speaker remarked that this Bill is not intended to compel the orthodox opinion to accept this Bill. But that is not correct because in quoting certain texts of the Smritis, in support of his Bill, Sir Hari Singh Gour is of opinion that that is the Shastraic law but as that has fallen into desuetude, he wanted to clear that doubt whether the law as given by the Shastras is not intended to operate in favour of dissolution of marriage in all castes. That is why in the preamble he says:

"Whereas it is expedient to remove certain doubts regarding the dissolution of marriages of persons professing the Hindu religion. . . . . "

If this Bill is not intended to affect orthodox opinion in this country, then it is certainly uncalled for, because there is already an Act of 1872 which can easily give relief under all these conditions for the unorthodox. If I have time I will refer to that later on. Therefore I take it that this Bill is intended to give an interpretation of the Shastraic law which necessitated my Honourable friend Mr. Sen elaborately to deal with the Shastraic law on the subject to which I propose to come presently. In a matter like this, I would consider that the opinion of the community directly affected by such legislation is absolutely necessary because it is they after all who have to support this Bill. In the absence of support from that community who will be affected by this Bill, it would be difficult for any State to administer such a law and the law would be a dead letter on the Statute-book. In this connection I should like to quote one speech of the Honourable the Home Member on a similar occasion. The Home Member said:

"Any kind of legislation which impinges upon social customs, usages and status ought not to be undertaken without the greatest caution and deliberation, and that is particularly true of the law relating to divorce. It regulates the most intimate personal relations of the community affected. Before the House can reasonably be asked to accept this measure I venture to say that it ought to stipulate that there should be a reasonable body of evidence to show that the community concerned desire an amendment of law."

That is a very proper view to be taken by any reasonable Member of the House, in this matter. Sir, I have acknowledged that this Bill was once before the public and certain public opinion was then gathered. If it were to be assumed that the public opinion in the country to-day is not any more favourable than it was when this Bill was circulated for public opinion it would be my duty in the name of the people I represent that this motion should be opposed. I have already stated that Sir

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Hari Singh opines public opinion is changed now in his favour. Apart from that the opinions then gathered were not satisfactorily collected. Whenever the Government of India gather public opinion, they only gather it from official sources, very much in the same way they do official returns. I will give you a few examples. For instance, here on page 25 Mr. Percival, I.C.S., says:

"I am in favour of the Bill. The matter, however, is primarily for Hindus to decide."

Then there is another opinion:

"With reference to Government letter, etc., I have the honour to state that the Collectors consulted are in favour of the proposed enactment and that I agree with them."

Then, the District Magistrate of Burdwan reports that he is:

"personally in favour of the Bill. The proposals are not welcomed by the Hindu community."

The District Magistrate of Birbhum says that he has no comments to offer, and so on and so forth. Quite a large number of these opinions which have been collected are from official sources, and the real public opinion of the Hindu community, particularly of those communities among whom divorce is not yet practised and which it is the intention of the Honourable the Mover of this Bill to affect, has not been adequately gathered. I do not of course mean to say that none of those communities who would be affected by this Bill have been consulted at all. They were consulted to a certain extent, and the opinions then gathered were entirely against this Bill. But the main ground which compelled me to table this motion however is that since the Mover of this Bill stated that public opinion is decidedly more in favour of the Bill now than it was before, I thought that it would be far better to have ample evidence that that community desires such a legislation; and in that case we could go straightaway into Select Committee and discuss the provisions of the Bill. As that evidence is wanting I have given notice of this motion.

Had it not been for a reference in the Bill itself that this Bill is intended to restore the old law, I would not have troubled myself to refer to any texts at all now. References to the texts have already been made to a large extent by my Honourable friend, Pandit Sen. I am not orthodox and I am not heterodox either. Therefore I can take a dispassionate view from the manner in which this Bill has been drafted and the way in which the texts have been brought up for discussion, it is my duty to say a few words on those texts themselves. The Honourable Leader of the Nationalist Party is of opinion that all Hindu marriages can be dissolved under the Shastraic law. Pandit Sen on the other hand is of opinion that no Hindu marriage can be dissolved. I respectfully submit that both of them were speaking only half-truths, because in certain cases Hindu marriages can be dissolved and in certain other cases they cannot be dissolved. The reason is this. Under the Shastraic law there are eight forms of marriages. Of these eight forms, the Brahma, Daiva and Arsha forms are religious marriages; Prajapatya, Gandharya and Asura civil marriages; and Rakshasha and Paishacha are sinful marriages. Of these eight forms of marriages, it cannot be gainsaid that a religious marriage being a sacrament can never be dissolved, whereas a civil marriage can always be dissolved, and I will presently quote my authority for that view. Manu says the religious duties of husband and wife are correlated and there shall be fidelity till death. Further he says nuptial *mantras* cannot be administered to non-virgins. But all these relate to religious marriages. It is wrong to state, as my friend Pandit Sen has done, there is no such thing in Manu as remarriage. I should like Pandit Sen to tell me, if remarriage is not allowed in Manu, what this particular text means:

"Sa cha dakshata yoni sya dyata pi va paunarbhavena bhartra sa punasamskaram arhati" (in Chapter IX of Manu at 176.)

I particularly want to stress the word *punasamskarm arhati.* It means that marriage is lawful. The translation is 'lawful' but I am prepared to concede to my friend Pandit Sen that 'lawful' may not be an accurate translation of the word *Arhati.* That word means something more than lawful, and it shows that she is deservingly entitled to be remarried. Therefore it cannot be said that there is no such thing as remarriage in Manu.

Pandit Satyendra Nath Sen: But this is not marriage in the proper sense of the term.

Mr. B. Sitaramaraju: It is very difficult to say what is the proper sense of the term of marriage and what is not the proper term of marriage. It is a matter of one's view point.

Pandit Satyendra Nath Sen: The word "marriage" does not occur in the text.

Mr. B. Sitaramaraju: It does because the text says *Samskaram.* I understand my Honourable friend when he says that it is not a proper term of marriage because in ancient life the people who had become religious would certainly consider all religious forms of marriage to be A1 and all non-religious forms of marriage to be A2, or, to use an exact expression, those marriages which are religious were deemed praiseworthy and those which were not religious were not deemed praiseworthy. In that way my Honourable friend is entirely right. But when he says that the word *punarbhu* is a technical term which means that she is a degraded woman, I venture to submit that it is not so.

Pandit Satyendra Nath Sen: I quoted the Shastras in my support.

Mr. B. Sitaramaraju: I am also quoting from the Shastras. I will read translation by Dutt. I have got the original text also here but I do not want to repeat the Sanskrit text which many Honourable Members will not understand and so I shall quote the translation; and if my Honourable friend says that a word is not properly translated, I am prepared to take up the challenge, and take the original. IX. 176 says:

"If that wife who is a virgin takes another husband, then let the second husband lawfully marry her again. Similarly if a wife after having deserted the husband of her girlhood and known another man returns to her husband of girlhood, let the first husband lawfully marry her again."

and in the previous verse the term *Paunarbhava* is stated to mean the son of a remarried woman.

Pandit Satyendra Nath Sen: Whose translation is this?

Mr. B. Sitaramaraju: Dutt's translation.

Pandit Satyendra Nath Sen: Mine is by Bühler.

Mr. President: Order, order. The Honourable Member had an opportunity of dealing with Shastras for an hour and a half. Let Mr. Raju have a few minutes to quote Shastras.

Mr. B. Sitaramaraju: I am prepared to concede to my Honourable friend that, so far as these religious marriages are concerned, the text in this book of Manu says that they are indissoluble. But that is not all. There were several marriages which are not religious marriages and which can be dissolved. That is my point. Again I would like to say that both the Leader of the Nationalist Group as well as the Honourable gentleman who is his follower have not accurately quoted the texts of Narada itself. They both are wrong. We are now concerned with the verses quoted by Sir Hari Singh Gour in support of his Bill, and all those verses are from Narada; and Sir Hari Singh Gour and my Honourable friend take the extreme views. Mr. Sen would say that all those verses refer only to betrothal couples excepting the three about the suitors. Sir Hari Singh Gour would contend that the verses support his proposition that a marriage could be dissolved. Both of them are not correct. Verse No. 24, which was quoted by Mr. Sen and which is found in the Statement of Objects and Reasons, certainly refers to a bridegroom and No. 37 refers to a suitor; but No. 97 undoubtedly refers to a husband; and the fact that my Honourable friend, Sir Hari Singh Gour, has thought it desirable to mix up all these things together—the qualifications of the suitor, betrothed couple and husband—as the conditions under which a wife could dissolve the union merely shows that he did so in order to make a bulky argument in favour of his Bill. If he had not done so, he would not have given an opportunity for Mr. Sen to attack the whole lot in the Bill; but as I have said Mr. Sen also is not correct; but we are not concerned with all those verses now. I am not prepared with all respect to the Leader of the Nationalist Group in his reasons to follow him through the gutturs of the bygone ages, but I would like to read this much which is really material to this Bill—verse 97—which says:

"When her husband is lost or dead, when he has become a religious ascetic, when he is impotent and when he has been expelled from caste, these are the five cases of legal necessity in which a woman may be justified in taking another husband."

By what stretch of imagination can my Honourable friend Mr. Sen contend that this verse refers to a betrothed couple only? A man does not become a husband unless the marriage is complete; she is entitled to marry again, according to this text.

One mistake my Honourable friend Sir Hari Singh Gour made and it is this; in quoting this text which undoubtedly refers to a married state, where the wife is entitled to dissolve the union under those conditions, on the strength of this passage he would like to contend that the whole Hindu community under this verse is entitled for a dissolution of marriage. He is wrong there because in the very chapter he himself has quoted I would invite his particular attention to three verses which will disprove his contention. These verses are Nos. 3, 28 and 29. These three would disprove his contention that verse 97 which says that a wife can dissolve a union

and take another husband should apply to all Hindus. My Honourable friend cannot question the translation because he himself has quoted from this book—the Sacred Books of the East by Max Muller—and I am entitled to quote back the same book. It says:

"Of these two parts of the marriage ceremony, the choice of the bride is declared to lose its binding force when a blemish is discovered in either party. The marriage prayer which is recited during the ceremony of joining the bride's and bridegroom's hands is the permanent token of matrimony."

An Honourable Member: Read the commentary.

Mr. B. Sitaramaraju: I do not care for commentaries; I am reading the text and that a commentary is after all a commentary and I am as good a commentator as anybody else and my opinion is as good as anybody else's. This verse would show that a betrothal could be dissolved but the marriage ties cannot be dissolved; and Max Muller and people who are not well acquainted with Hindu society are puzzled because they find here is a text which says marriages could be dissolved and here is another text which says that marriages can never be dissolved; they find it inconsistent; but they have not carefully read these passages and say whatever they thought in their commentaries and that is the reason why I rely more upon the text than upon the commentaries. The next verse is much more clear. It says—I am reading No. 28.—"Once is a family property divided, once is a maiden given in marriage and once....." each of these three acts is done a single time only among the virtuous. There also marriage is described to be indissoluble among the virtuous people, and I have said what is virtuous and what is not virtuous when I enumerated the 8 forms of marriage just a few minutes ago. The next paragraph settles practically the whole question raised by my friend Sir Hari Singh Gour. It is this:

"This rule applies to the first five forms only beginning with the.....form of marriage and not to the three others beginning with the Asura form.....the irrevocable gift of a maiden to a particular suitor depends upon the qualities of the suitor."

In other words, it means this, that, so far as religious marriages are concerned, they being a sacrament they cannot be dissolved, but where civil marriages are concerned they can be dissolved, and the passages which my friend Sir Hari Singh Gour has quoted were from a chapter which began with the qualifications necessary for a suitor and where mention was made of the circumstances under which a union can be dissolved. Therefore I say that verse 29 makes the position clear as regards the application of verse 97 is concerned. This view held by the ancient Smrithikaras does not seem to be so outrageous as some of our friends seem to imagine, because recently in England there was a conference of Bishops, and at that conference it was decided by them that where a marriage is performed in a Catholic Church, that marriage, being a sacrament, cannot be dissolved, and that marriages performed outside the Church can be dissolved. That is practically the view of the ancient Smrithikaras. Whatever the merits of that may be, I would like to point out that it is not my intention to go any deeper into the matter of these texts now. It requires a very careful consideration, some amount of sympathy and also some amount of toleration is necessary to understand them. If only orthodox opinion in this country is more tolerant, and if social reformers like my friend Sir Hari Singh Gour are less impatient, even this country would be still a happy place to live.

[Mr. B. Sitaramaraju.]

So much about the objects and reasons of my friend's Bill, but I say that the main object of his Bill is not that he was in doubt as regards Shastraic Law. The real object is this, and Sir Hari Singh Gour, has given it in his Code:

"So long as Hindu law remains a part of the religious law of the people, caste must continue to play its part and the first step that appears necessary in the reforms of the Hindu law is to remove it from the control of the Shastras and place it in the hands of the Legislature."

His real object is that the Legislature should take control of all Shastraic Laws of Hindus, and this Bill is only a thin end of the wedge. I personally sympathise very much with my friend, but I might point out that if my friend wanted to bring forward a Divorce Bill, he should have brought forward a pucca born Divorce Bill. I for one hate anybody tinkering with this problem, which is by far a serious problem; it is connected with the most intimate relations of husband and wife. The point for our consideration is this. Should any section of the Hindu community hold marriage as a sacrament or not? If it is to be a sacrament with them, then this Bill goes too far. If it is not to be a sacrament, if it is the intention of this Legislature and if it is within the power of the Legislature to say that those sects of Hindus cannot hold it as a sacrament, then this Bill does not go far enough. The Honourable the Mover has mentioned three causes under which a woman is entitled to a divorce. Why should the divorce be restricted to these three terms? There are 101 causes under which an American wife is entitled to do so, there are so many causes from which a woman suffers much more acutely than any of those mentioned in this Bill, and for which relief is certainly desirable. Further, some of the terms which my friend has described are incapable of description and would give rise to a considerable amount of litigation without affording the real relief to the parties concerned. All that this Bill would do is to say that a woman can be divorced for these three causes. Take for instance every one of them. Each in itself is undoubtedly a very good ground for a woman to dissolve a union, because no reasonable man in this House would say that given such conditions such a woman should be compelled to live under such conditions. Every reasonable man must agree that it would be very hard upon the woman to make her live under such conditions. But what about the men? They should also be entitled to an equally fair treatment. Is the man entitled to dissolve a union with a wife simply because she is not virile or that she is stupid or unfortunate enough to contract leprosy or consumption? Would the law then enable him to deprive her of the maintenance to which she is entitled? Manu says in a corresponding verse to this. "Even a woman if she is stricken with an incurable disease no husband is entitled to discard her or to remarry again without her consent". All that I would like to say is this: If the time has come to abandon the sacramental character of a marital tie and if there is to be a civil marriage instead, then I would entirely agree with my friend Mr. Joshi and say that this Bill does not go far enough, and I am prepared any day to have a Bill under which the husband and wife will have equal and absolutely just rights. In that connection I would like to mention that such a thing is not impossible. See how the Russians have solved the problem. The Divorce Laws of England and America are not satisfactory to my mind. The only people who have solved that problem and who have put the marriage laws on a just and proper equal footing between man and woman are the Russians, and I would rather have a Bill of that type if marriage is not to be treated as a sacrament. According to the marriage laws of Russia only civil marriages under the Soviet laws are recognised; and they even went to the length of saying that a marriage in a church does not invalidate it. That is how they put it. The marriages have to be registered, but that can be done at any time, even after they have had children. To enable registration, there should be mutual consent, and each party should be at least over 18 years of age, and they must mutually be informed as to the state of each other's health. In order to avoid invalidity, the persons should both be unmarried at the time, that is to say they cannot have more than one partner at a time. They should not be mentally defective. Both husband and wife have full freedom as to the choice of occupation or profession, and what is more important, marriage does not prevent a party to the contract from changing his or her residence. That is to say a husband can live in one house or in one town and the wife can live in another house or in another town. Change of residence by one does not impose an obligation upon the other party to follow. A party to marriage in need, due to incapacity or unemployment, is entitled to be maintained by the other; that is, if the husband is disabled, it is the duty of the wife to maintain the husband and *vice versa*. That right is preserved even upon dissolution, if incapacitated, for a period of one year, and if unemployed, for six months. As for divorce, a marriage can be dissolved by mutual consent or even at the desire of one of them. No grounds for divorce are required, and a petition orally or in writing at the Registrar's office is sufficient.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Where did you get all this?

Mr. B. Sitaramaraju: From the Year Book of Soviet Russia. I am just developing the point that it is quite possible to have a purely civil marriage where the rights of both the husband and wife can be equal and can be justly safeguarded. Therefore, it cannot be said that a pure contract of the kind to which my Honourable friend Mr. Joshi has just now referred cannot be described as a possible marital tie. All that I would like to say however is that this is a matter entirely for the people directly concerned with the legislation, and I move that the Bill be circulated for eliciting the opinion of those Hindus concerned.

Mr. President: Amendment proposed:

"That the Bill be re-circulated for the purpose of obtaining further opinion thereon of the Hindu community including men and women of that community and also including their organisations."

Mr. C. S. Ranga Iyer: Sir, the amendment is only a dilatory motion. It reminds me of an old English saying, "Promise, pause, prepare, postpone and end by letting things alone". I do not really see why the Honourable the Mover of this amendment wants an accumulation of literature on this subject by circulating it. I do not really see why the Mover of the amendment does not decide straightaway as to what he should do in regard to this matter, either to take it as it is, or to go to the Select Committee and amend it, or to oppose it. My Honourable friend Pandit Satyendra Nath Sen with a battery of Vedic literature on the subject came to this House and bombarded my learned friend to the right (Sir Hari Singh Gour) with all the Vedic and Shastraic ideas most of which

[Mr. C. S. Ranga Iyer.]

we have forgotten and some are unwilling to remember in these spacious days of social reform. (*Mr. B. Sitaramaraju*: "I have given the reason.") My Honourable friend Mr. B. Sitaramaraju—whose father's voice, who once sat in this House, we were so much pleased to hear—was quoting from the legal literature of a country which I still consider to be primitive. I do not know why he should have gone all the way to Soviet Russia in order to assail my Honourable friend to my right. If he had just confined his arguments to more cultured countries of the West, for instance, England and the continental countries like France, even America, where incompatibility of temperament would be sufficient proof for a divorce—if he had confined himself to such advanced countries, it would have been easy for us to meet his arguments. I would remind him of a wonderful article written by that fascinating scholar and great statesman Lord Birkenhead in one of the British magazines. The article was on "Cannibals and Cooking Pots". Lord Birkenhead was referring to Soviet Russia. I would rather throw my Honourable friend's suggestions into the melting pot, and I would leave them there for the time being I would rather ask him to come nearer home to two advanced Indian States, Mysore and Baroda. I do not for a moment subscribe to the theories advanced inside this House and out in the country by politicians of a particular school with a certain amount of predilection for Indian States, who have always said that the Indian States are in matters of administration far ahead of British India. I never subscribed to that theory even in the times of Mr. Gokhale who thought and said that certain Indian States were far ahead of British India. The Indian States, administratively speaking, are still backwaters. (*Raja Bahadur G. Krishnamachariar*: "Not a bit.") My Honourable friend over there, Raja Bahadur Krishnamachariar says, "not a bit of it", in his usual ambiguous way. He says not a bit of backwardness—it was all backwardness. (Laughter.) Sir, that being the position administratively, I think it is nice to see sometimes something in the shape of a social reform oasis in the dreary deserts of Indian States, and we have before us the example of Mysore. We have again before us the example of Baroda. I have before me,—though I do not propose to waste the time of this House by reading parts of it—the literature on the subject from Mysore. I would, however, refer Honourable Members to the law on this matter in Baroda as contained in the Hindu Divorce Act. XXII of 1931. In this particular respect, I think it is time that British India took a leaf from the book of Baroda. Sir, my Honourable friend Sir Hari Singh Gour does not go so far in regard to the dissolution of marriage as Baroda does, for in Baroda divorce is possible if one becomes a recluse, if one disappears for seven years, if one has been converted to Christian, Muhammadan or such other religion—though on this particular matter I have my own difference of opinion because I do not see why a marriage should be necessarily dissolved if the husband happens to change his religion, because religion is purely a matter of private opinion for an individual and not a thing to be imposed upon the public, and if the wife agrees to the particular religion that the husband takes, why should any question of dissolution arise—but I am only quoting the progress that Baroda . . . .

Mr. N. M. Joshi: May I ask the Honourable Member whether the marriage is divorced simply because the religion is changed—whether the party is permitted to dissolve, or a dissolution is compulsory.

Mr. C. S. Ranga Iyer: I know it is permissive, but I am prepared to argue from the other standpoint and meet the argument of my Honourable friend Pandit Satyendra Nath Sen. His argument——and he represents a school of thought in this country which I cannot brush aside because it is a great popular, powerful conservative school and their apprehension in regard to this Bill is, you start with a permissive measure and you end by making it at a later stage compulsory. They consider that this is the thin end of the wedge. (*Raja Bahadur G. Krishnamachariar*: "Hear, hear.") My friend behind me says "Hear, hear". That is exactly their position and I value his punctuation in this matter as representing orthodoxy out in the country. Therefore we should not take shelter under the fact that it is a permissive legislation and I believe Sir Hari Singh Gour who is a diplomat in matters of social reform really introduces the thin end of the wedge. Are we or are we not entitled to have social legislation in this country? I now come back to my original position. Is this House competent.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Read the rest of the clause?

Mr. C. S. Ranga Iyer: The rest of the clause in the Baroda Act deals with cruelty and desertion without reasonable cause and so on. I do not like to read many of the things in this any more than I should like to read what my Honourable friend has stated in the Statement of Objects and Reasons. He has introduced stuff into certain clauses which are eminently unreadable but I will leave these clauses at present and proceed with my argument. I was trying to point out that in Baroda we have got social legislation and it is time that we have similar legislation in British India.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Have you seen the proceedings of the Council which led to that Act?

Sir Hari Singh Gour: Have you read it?

Raja Bahadur G. Krishnamachariar: When my chance comes I will throw it on your face.

Mr. C. S. Ranga Iyer: My Honourable friend has got excited. He is full of facts and ideas which he proposes to hurl on the devoted head of Sir Hari Singh Gour. Whatever his attitude may be in this matter, my attitude is very clear and simple. I am a social reformer and I believe that India must make up her mind not to live as a recluse nation, not to follow the example of her rishis and sages who ran away from "the madding crowd's ignoble strife" to commune with Himalayan nature. Thanks to the shrinking of the world owing to modern scientific developments, India must make up her mind to live as a part and parcel of the world and in this particular matter we owe a great deal to the softening and refining influence of western education. India does not want to go back to Vedic times. After all the Vedas are immortal literature just as all scriptural things are immortal. But even the Vedas are liable to interpretations, which are not wholly the interpretations of my orthodox friends like Mr. Satyendra Nath Sen. Vedic Pandits have treated the Vedas like India rubber, forgetting that even India rubber has its own limitations. That being the case, I would rather not like to look at these things from a scriptural point of view. I would

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look at them from the purely modern point of view. Are we prepared to take a modern view of things? There is no use in quoting scriptures to stop the onward march of progress. Social legislation of a permissive kind must not be resisted. The question arises—are we competent in this House to legislate for a whole nation. I deny that we are competent and that is where I do not agree with my Honourable friend Sir Hari Singh Gour. On the merits of the question I am in agreement with him but on the question of rushing through with this legislation in this House by pressing this motion to a division, I do not agree with him at all, for the very simple reason that these measures have only an educative value. (*Sir Hari Singh Gour*: "No.") My friend is getting nervous. He says "No". My position is this. In front of us we have the Treasury Benches, who have no responsibility in the parliamentary sense to the people of this country. Supposing they had responsibility in the parliamentary sense, supposing in the place of my friend the Home Member Sir Hari Singh Gour was seated, supposing in the place of Sir Joseph Bhore, Mr. Shanmukham Chetty was seated and supposing my friend Sir Hari Singh Gour brought forward a measure of this kind, my friend Raja Bahadur Krishnamachariar would certainly attack it and take this measure to the country and carry on a raging tearing propaganda against it. He is perfectly entitled to do so. If Sir Hari Singh Gour has behind him the mandate of the country and comes back to this House with a large majority, he will have the right to legislate, not otherwise.

Mr. B. V. Jadhav: What Government will undertake such legislation?

Mr. C. S. Ranga Iyer: A Government responsible to the people, by people aspiring for responsibility. People who do not want responsibility will shirk responsibility. If my Honourable friend who has got administrative experience in Bombay, thanks to the reforms, reads the literature on the subject of social legislation in all countries which have responsible Government, he would not have stood up in his place and made this interruption. A matter of this kind must carry with it public opinion. I ask Sir Hari Singh Gour what public opinion he has got in this House or outside it? (*Sir Hari Singh Gour*: "Yours.") He says he has got my opinion, yes, my private opinion. If I were in his Government, I would certainly go to the country and place before the people his legislation on this matter and get the vote of the country on my side. I do not think that Sir Hari Singh Gour at this stage should take advantage of his position in this House and rush through a legislation of this kind. This Bill ought to have nothing but an educative value and if he goes beyond that, I think he will be going beyond his own depth. (Applause.)

Kunwar Raghubir Singh (Agra Division: Non-Muhammadan Rural): Sir, I wish to oppose the Bill sponsored by the Leader of the Nationalist Party. He says in the Statement of Objects and Reasons that he wishes to introduce no new matter into the Hindu marriage law. The first line of his motion shows that it is to remove the doubts that he has brought forward this Bill. One who has gone through the Mitakshara law carefully can have no doubts with regard to marriage among Hindus. As the Honourable Mr. Sitaramaraju has said, there are 8 kinds of marriages given out in the Mitakshara law, which is an exhaustive law so far as Hindu marriages are concerned. There is no necessity to remove doubts.

because the doubts have already been removed by the author of the Mitakshara law. It has been laid down there that the woman has a right to renounce her husband if that husband is impotent or is a leper or a cripple or mad or an ascetic. The Honourable the Mover has named Narad and Vashishta to show that the smiritis written by these authors were in favour of dissolution. We see in America and other western countries where divorce is prevalent there are thousands of cases of divorces every year, nay every month. Or I should rather say that the marriage life of the people of those places is not better than our own (*An Honourable Member*: "Much worse.") Perhaps, worse. So, Sir, I do think that the Honourable the Mover should not play into the hands of non-Hindus by trying to change the law, which, as I said in the beginning, is all exhaustive. If we look at the names of the members of the Select Committee as proposed, there is the name of my Honourable friend, Dr. Ziauddin Ahmad. Now my Honourable friend is a very good mathematician, I know, because he comes from my own place, Aligarh, but I think legal talent would have been much more useful than that of a learned mathematician.

1 P.M.

Mr. S. G. Jog (Berar Representative): Marriage has got something to do with multiplication.

Kunwar Raghubir Singh: Then, the name of Sardar Sant Singh is proposed. Now my Honourable friend is a Sikh and as such he cannot have much interest in purely Hindu marriages. Then, the Honourable the Mover himself does not admit himself to be a Hindu. (*Some Honourable Members*: "Why? Why? Is it so?") There was a question the other day put by Mr. D. K. Lahiri Chaudhury, and my friend said nothing, he did not reply. Then, I see that the Punjab element is predominant in the names proposed for the Select Committee. Now, as everybody knows, there is a shortage of women in the Punjab. (Laughter.) (*An Honourable Member*: "In reality, they are the most advanced"), and there is a probability that only those people have been proposed for the Select Committee who have some interest in the matter themselves. (Laughter.) (*Mr. S. C. Mitra*: "Then put down some amendment.") Sir, I have had a letter from Calcutta in which it has been pointed out that the Hindu marriage "is a religious sacrament, a 'samskar' of life, and the law on the subject as laid down in the Shastras is inviolate and inviolable. No Hindu having a faith in his religion can be expected to dissolve a marriage according to a novel Act at the sacrifice of his religion". So, Sir, I wish to say that the overwhelming majority of my constituents as well as that of Hindus in the country in general is against the proposal. Of course I myself, personally, may be in favour of the proposal (Hear, hear), but the majority of my constituents is against it, and so I cannot but oppose this Bill. But when I came to the House, I saw that there was an amendment by the Honourable Mr. Sitaramaraju, so I think, as coming in between these two propositions, I think the better course for the House will be to send it to the country for an expression of opinion further. With these few words I support the amendment of my Honourable friend, Mr. Sitaramaraju, and oppose the original motion.

Mr. R. S. Sarma (Nominated Non-Official): Sir, I am sorry to find that a most learned and up-to-date England-returned gentleman like

[Mr. R. S. Sarma.]

Mr. Raju and an old-fashioned and revered Pandit like Mr. Satyendra Nath Sen should have joined hands in a conspiracy (Laughter) and in a malicious attempt to deprive the Hindu woman of her legitimate rights in the scheme of the family. (Hear, hear.) Sir, it is a very sad spectacle to witness that so many elected Members in this House who profess to be so very well advanced as to be almost extremist in their opinions regarding politics should be so hopelessly reactionary and autocratic in matters of social reform. Sir, it was your finding that the discourse of Pandit Satyendra Nath Sen was learned and erudite; and I am afraid that the discourse of our friend, Mr. Raju, was perilously near erudition, but I really fail to understand what these Shastraic discourses and the other points raised in the course of the speeches have to do with this Bill. Sir, this Bill simply provides that, in case of certain disqualifications, women should have the right to apply for divorce or the dissolution of marriage. That is the only thing that this Bill wants. The whole issue before the House is this, whether the evil complained of exists or not; and it has been fairly accepted by everybody that the evil exists. Then, the next question is, whether the remedy proposed is adequate and necessary and effective. But, unless one is intensely selfish or comes within the category of some of these disqualifications, I do not see how any man, if he has really accepted the existence of the evil, can protest against the remedy that has been suggested. I myself like my friend, Mr. Joshi, would have liked that the Bill should have gone far, but I am supporting this because the Honourable the Mover of the Bill has given us an assurance that he will consider all reasonable amendments in the Select Committee. Therefore, Sir, I strongly feel that this House should accept this motion for reference to a Select Committee.

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 in the Chair.

Raja Bahadur G. Krishnamachariar: Sir, I had also given notice of a motion for the circulation of the Billl but I think, I should explain my position with reference to that.

Mr. S. G. Jog: On a point of order, Sir. I hear a whisper that the House is wanting in quorum. I should like to know whether it is a fact.

Mr. President (to Secretary): Will you please count up?

(After the bell had rung the number of Members inside the Chamber was found to be only 19.)

Mr. President: Order, order. As there is no quorum, the House stands adjourned till 11 o'clock on Monday, the 15th February.

The Assembly then adjourned till Eleven of the Clock on Monday, the 15th February, 1932.

LEGISLATIVE ASSEMBLY.

Monday, 15th February, 1932.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President in the Chair.

QUESTIONS AND ANSWERS.

WITHHOLDING OF RESOLUTIONS FROM THE MEETING OF THE LAHORE CANTONMENT BOARD.

351. ***Sirdar Sohan Singh:** (*a*) Will Government be pleased to state whether it is a fact that three elected members of the Lahore Cantonment Board sent three resolutions to the Executive Officer for inclusion in the agenda of the December meeting of the Cantonment Board?

(*b*) Is it a fact that the Executive Officer wrote back saying that as they were unnecessary they would not be included?

(*c*) Is it a fact that it is the inherent right of every member of a Board to send in any resolution he likes, and that the Government of India have already issued instructions that even the President of the Cantonment Board cannot withhold any resolution?

(*d*) If so, what action do Government propose to take to stop such acts on the part of the Executive Officer of the Lahore Cantonment Board?

Mr. G. M. Young: With your permission, Sir, I will answer questions 351 to 355 together.

The information has been called for, and replies will be laid on the table in due course.

REFUSAL OF THE EXECUTIVE OFFICER, LAHORE CANTONMENT BOARD, TO CONVENE A SPECIAL MEETING OF THE BOARD.

†352. ***Sirdar Sohan Singh:** (*a*) Will Government be pleased to state whether it is a fact that the elected members of the Lahore Cantonment Board sent in a requisition under section 37 (2) of the Cantonments Act, for calling a special meeting of the Cantonment Board on the 19th December, 1931?

(*b*) Is it a fact that the Executive Officer, *vide* his letter No. T./63/E. O., dated the 17th December, 1931, wrote back saying that as the President was out of station, no action could be taken, although the Vice-President was in the station?

(*c*) Is it also a fact that the Vice-President, in exercise of the duties devolving upon him under section 23 (*b*) of the Cantonment Act, convened the meeting, and issued instructions to the Executive Officer, Lahore Cantonment, to circulate the necessary agenda and notice of the meeting?

†For answer to this question, *see* answer to question No. 351.

(*d*) Is it a fact that the said Executive Officer, *vide* his letter No. T./68/O. E., dated 18th December, 1931, informed the Vice-President that his request could not be complied with?

(*e*) If so, are Government prepared to take necessary steps in the matter?

LICENCES OF MEAT SELLERS IN LAHORE CANTONMENT.

†353. ***Sirdar Sohan Singh:** (*a*) Is it a fact that the Lahore Cantonment Board sanctioned the grant of a licence to three meat sellers in Sadar Bazar in order to break up the pool of Cantonment market lessees, who had raised their prices?

(*b*) Is it a fact that the shops, in which such trade was to be carried on, were made sanitary as required by the Cantonment Health Officer?

(*c*) Is it also a fact that the cattle for the meat to be sold in such shops was under Cantonment Law to be slaughtered under Cantonment sanitary supervision in the Cantonment slaughter house only?

(*d*) Is it a fact that the President withheld the grant of such licence under section 51 (*l*) of the Cantonment Act, as affecting the health of the troops?

(*e*) Is it a fact that the Sadar Bazar meat shops are only used by civilian people, and do Government propose to issue instructions that the exercise of powers under section 51 are not to be resorted to?

REJECTION OF AN APPLICATION FOR CONSTRUCTION OF A BUNGALOW IN LAHORE CANTONMENT.

†354. ***Sirdar Sohan Singh:** (*a*) Will Government be pleased to state whether it is a fact that one Sh. Rahmat Ullah Khan sent a notice under section 179 of the Act to the Lahore Cantonment authority for constructing a bungalow in the area south of St. John Road?

(*b*) If so, is it a fact that the same was not placed before the Cantonment Board, but was rejected by the Executive Officer directly after getting instructions from the Northern Command?

(*c*) If so, what action do Government propose to take in the matter?

(*d*) Is it a fact that under section 210 of the Cantonment Act, it is the Cantonment Board, Lahore, and not the Executive Officer, who is competent to sanction or reject applications?

(*e*) Is it a fact that the Executive Officer of Lahore disposes of such applications without reference to the Board?

(*f*) If so, do Government propose to issue necessary instructions for stopping such an action of the Executive Officer?

REFUSAL OF PERMISSION TO HOLD A MEETING IN CAWNPORE CANTONMENT.

†355. ***Sirdar Sohan Singh:** (*a*) Is it a fact that the Cantonment authority, Cawnpore, published some new proposals of taxation on the 11th January, 1932, and invited objections from the people to the same within one month from the date of the publication?

†For answer to this question, *see* answer to question No. 351.

(*b*) Are Government aware that the Cawnpore Cantonment Association intended to hold a public meeting for that purpose in the Faithfull Ganj (Cawnpore Cantonment Bazar Area) on Sunday, the 24th January, 1932, and applied to the District Magistrate for permission in view of his having applied section 144 to that area?

(*c*) Is it a fact that the District Magistrate, Cawnpore, refused to give permission for the meeting in spite of his being assured that the meeting was being arranged by an affiliated Branch of the All-India Cantonments Association having "co-operation" as its creed and that no other matter except the "taxation proposals" would be allowed to be discussed in that meeting?

(*d*) Do Government propose to instruct Local Governments not to restrict ordinary routine meetings called by the Branch of a constitutional body like the All-India Cantonments Association and ask the Cantonment authority, Cawnpore, to extend the time for inviting objections?

INTRODUCTION OF ELECTED CANTONMENT BOARDS IN THE NORTH-WEST FRONTIER PROVINCE.

356. ***Sirdar Sohan Singh:** (*a*) Did Government write to the All-India Cantonments Association on the 12th October, 1929, that steps were being taken to create elected boards in those Cantonments of the North-West Frontier Province, which have nominated boards at present?

(*b*) What steps have Government taken so far in that direction and when will the creation of those elected boards be an accomplished fact?

(*c*) Are Government aware that in view of the impending reforms in that Province, the people of the Cantonments of that Province are anxious to have elected boards simultaneously with the introduction of those reforms?

(*d*) Do Government propose to meet this desire of the people?

Mr. G. M. Young: (*a*) No, Sir. The Government never made any such statement.

(*b*) Does not arise.

(*c*) No, Sir; Government have no reason to suppose that this is the case.

(*d*) Does not arise.

EXTENSION OF THE HOUSE-SCAVENGING TAX IN AMBALA CANTONMENT.

357. ***Sirdar Sohan Singh:** (*a*) Is it a fact that the Ambala Cantonment Board has by a majority of votes submitted to the Local Government a proposal to enlarge the scope of the house-scavenging tax and to extend it to "offices", shops, godowns, religious and charitable institutions that are so far exempt from it?

(*b*) Is it a fact that public meetings have been held at Ambala and a public representation signed by about 2,000 people has been sent to the Northern Command and to the Local Government, protesting against the unjustifiable imposition of the above tax on the buildings named above?

(*c*) Will Government please state the financial necessity for the above proposal?

(*d*) Is it a fact that the Ambala Cantonment Board has about 1¼ lakhs in investment about Rs. 80,000 as cash balance and submitted a balanced budget in September, 1931?

(*e*) Is it a fact that in its Circular No. 50300/L.C.-2, dated 17th December, 1931, the Northern Command has distinctly instructed the Cantonment authorities under its jurisdiction not to submit any "*proposal of increased taxation*"?

(*f*) Do Government propose to issue instructions that the proposal for enhancement of house-scavenging tax be withdrawn by the Cantonment authority, Ambala, or rejected by the Local Government?

Mr. G. M. Young: The matter is within the competence of the Local Government, with whose authority the Government of India do not propose to interfere.

STANDARD PLANS FOR HOUSES UNDER THE EASTERN COMMAND.

358. *Sirdar Sohan Singh: (*a*) Is it a fact that the General Officer Commanding-in-Chief, Eastern Command, has issued orders under section 181 (4) of the Cantonments Act, 1924, that permission to re-erect a bungalow should be given, only if it conforms to any of the "*Standard Plans*" approved for the purpose by the Command?

(*b*) Are Government aware that if the design and plan approved by the Eastern Command are to be followed, the lowest cost on a bungalow will come up to Rs. 30,000 according to the Military Engineering Service's estimate?

(*c*) Are Government aware that as a result of this restriction house-owners in the Cantonments of that Command are unable to re-erect such of their bungalows as are now lying in a dilapidated condition?

(*d*) Will Government explain how the provisions of section 181 (*4*) cover such an order? Is it a fact that this section empowers a Command to prohibit the construction of a building in some congested area to prevent over-crowding and not to prescribe the type and design of buildings to be constructed?

(*e*) Are Government aware that the order of the Eastern Command is greatly resented by house-owners in these days of economic depression?

(*f*) Do Government propose to direct the Eastern Command to withdraw this order or in the alternative to explain its necessity and the object which it is intended to achieve?

Mr. G. M. Young: (*a*) Government have no information except that the General Officer Commanding-in-Chief, Eastern Command, sanctioned a scheme for the erection of bungalows in Cawnpore Cantonment in pursuance of section 181 (*4*) of the Cantonments Act, 1924.

(*b*) No, Sir. Government understand that various types of plans have been approved by the Cantonment Authority, Cawnpore, and that the cost of the construction of buildings in the cantonment ranges from Rs. 7,000 to Rs. 15,000.

(*c*) No, Sir.

(*d*) and (*f*). Government were of the opinion that the matter should have been dealt with by bye-laws under section 186(*b*) of the Cantonments Act, and have communicated this opinion to the General Officer Commanding-in-Chief, Eastern Command.

(*e*) No objections to the promulgation of the above orders have so far been received from any house owners in Cawnpore.

RECOVERY OF A HOSPITAL FEE IN ALLAHABAD CANTONMENT.

359. *Sirdar Sohan Singh: (*a*) Has the attention of Government been drawn to an article published on pages 15—17 of the *Cantonment Advocate* of December, 1931, under the heading 'Abuse of Section 259 at Allahabad Cantonment'?

(*b*) Is it a fact that action was taken by the Cantonment Authority of Allahabad under section 259 to recover through the District Magistrate from one Mr. Brij Mohan Dass a certain amount said to be due to the Sub-Assistant Surgeon in charge of the Cantonment General Hospital as his fee for testing the blood of Mr. Brij Mohan Dass's wife?

(*c*) Was the amount so received credited to the Cantonment Fund? If not, how did the Cantonment Authority come in, to recover it from Mr. Brij Mohan Dass?

(*d*) Are Government aware that the All-India Cantonments Association regards it as a flagrant abuse of section 259? If so, do Government propose to take steps to stop this abuse in the future?

Mr. G. M. Young: (*a*) Yes.

(*b*), (*c*) and (*d*). The allegations furnished, in the opinion of Government, no *prima facie* ground for supposing that the treatment was received otherwise than in accordance with section 174 of the Act: that section 259 was illegally invoked to secure payment of the fee: or that the sum recovered was not properly credited. Government are not prepared to interfere therefore on the information at present before them.

EXEMPTION OF CANTONMENT BOARDS FROM AUDIT CHARGES.

360. *Sirdar Sohan Singh: (*a*) Are Government aware that according to the scale of audit fee recently sanctioned by Government, a Cantonment Board has to pay a fairly large amount every year as audit charges from the Cantonment Fund?

(*b*) Has the attention of Government been drawn to an article headed 'Exemptions of Local Bodies from Audit Charges', published on page 20 of the *Cantonment Advocate* for December, 1931?

(*c*) Is it a fact that Bombay Government has exempted all local bodies from audit charges?

(*d*) If so, do Government propose to extend this concession to the Cantonments?

Mr. G. M. Young: (*a*) The scale of audit fees represents as nearly as possible the actual cost of audit as conducted by the prescribed authority.

(*b*) Yes.

(*c*) The Government of India have no information.

(*d*) No, Sir.

HEAVY TAXATION IN DEHRA DUN CANTONMENT.

361. ***Sirdar Sohan Singh:** (*a*) Has the attention of Government been drawn to an article headed 'Heavy Taxation and Poor Amenities in Dehra Dun', published in the *Cantonment Advocate* for January, 1932?

(*b*) Will Government please state the income of the Cantonment Authority of Dehra Dun, as also how much of it is spent on education, and what schools are maintained or aided by the Cantonment Authority?

(*c*) Are Government aware that the existence of three taxes, *viz.*, the terminal tax, the profession tax and the License fee, is weighing down the small trade of that Cantonment and there is great dissatisfaction among the trading people on that account?

(*d*) Do Government propose to ask the Cantonment Authority of Dehra Dun to revise its taxation?

Mr. G. M. Young: (*a*), (*c*) and (*d*). Government have seen the article. It appears that the matter has been represented to the Local Government in accordance with the correct procedure.

(*b*) The information has been called for, and a reply will be laid on the table in due course.

SALE PRICE OF BYE-LAWS AND REGULATIONS IN CANTONMENTS.

362. ***Sirdar Sohan Singh:** (*a*) Have Government received a representation from the All-India Cantonments Association, requesting that instructions be issued to Cantonment Authorities that the sale price of bye-laws and regulations framed by a Cantonment Authority under the various sections of the Cantonments Act, be fixed very low and should in no case exceed the cost of printing the same?

(*b*) Are Government aware that in some Cantonments full '*copying fee*' is charged for supplying a copy of a particular set of bye-laws?

(*c*) Is it a fact that the policy of Government is that these bye-laws be known to the people as widely as possible?

(*d*) If so, do Government propose to issue instructions for the carrying out of that policy?

Mr. G. M. Young: (*a*) Yes, Sir.

(*b*) Government have no information.

(*c*) Yes, but the bye-laws are published in the local official Gazette, and a copy of all rules and bye-laws made under the Cantonments Act, 1924, is kept in the office of the Cantonment Authority, for inspection, during office hours, by any inhabitant of the Cantonment without any payment.

(*d*) No, Sir. The sale price of copies of rules and bye-laws is a matter within the discretion of the Cantonment Authority.

TRANSFER OF LIEUT.-COLONEL M. DOCKRELL FROM PESHAWAR CANTONMENT.

363. ***Sirdar Sohan Singh:** (*a*) What is the ordinary term of the appointment of an Executive Officer in a Cantonment?

(*b*) Is it a fact that Lt.-Col. M. Dockrell has held that post in Peshawar Cantonment for a number of years and that the Cantonment Association and the *Anjuman Himait Islam* of Peshawar have passed resolutions, requesting the transfer of Lt.-Col. M. Dockrell?

(*c*) Have Government been also approached on the subject by the All-India Cantonments Association?

(*d*) What action have Government taken on the reference of the All-India Cantonments Association on the subject?

(*e*) Are Government aware that there is a growing feeling of discontent with the treatment and conduct of cantonment administration by Lt.-Col. M. Dockrell, both among the Hindus and Muhammadans of Peshawar Cantonment?

(*f*) Is it a fact that Lt.-Col. M. Dockrell's transfer is due in the ordinary run of official affairs?

(*g*) Do Government propose to allay public feeling in the matter by hastening the transfer of Lt.-Col M. Dockrell from Peshawar as far as possible?

Mr. G. M. Young: (*a*) There is no fixed term.

(*b*) and (*c*). Lieutenant-Colonel Dockrell has held the appointment since 29th March, 1928. Representations were received from the All-India Cantonments Association in regard to his transfer.

(*d*) The Association was informed that his immediate transfer from Peshawar was not desirable, and that he would be proceeding on leave in March next.

(*e*) No, Sir.

(*f*) The answer is in the affirmative. The officer is shortly proceeding on leave.

(*g*) The answer is in the negative.

ACTION TAKEN UNDER SECTION 25 OF THE CANTONMENTS ACT BY THE EXECUTIVE OFFICER, AMBALA CANTONMENT.

364. ***Sirdar Sohan Singh:** (*a*) Are Government aware that the Executive Officer, Ambala Cantonment Board, purchased a lot of material required for the tarring of roads, demolished a large number of alleged unauthorised buildings, issued licences to three travelling cinemas and ordered a new construction work by a recourse to section 25 of the Cantonments Act, in the months of October, November and December, 1931?

(*b*) Is it a fact that this recourse to section 25 was thought by some elected-members to be unnecessary and unjustifiable and a virtual move on the part of the Executive Officer to supersede the Cantonment Board?

(*c*) Will Government please state how the doing of the above acts is covered by the provisions of section 25? If there be no justification for such a use, what action do Government propose to take against the erring Executive Officer and stop this abuse in the future?

Mr. G. M. Young: The information has been called for, and a reply will be laid on the table in due course.

EXECUTIVE OFFICERS IN INDIAN CANTONMENTS.

365. *Sirdar Sohan Singh: (a) Will Government please state the total number of Executive Officers in the Cantonments of India? How many of them are Indians?

(b) Are Government aware that there is general dissatisfaction in the Cantonments about the capability of the Indian Executive Officers as at present recruited to perform their duties?

(c) Is it a fact that these officers are generally Indian officers of regiments holding the Viceroy's commission?

(d) Has the All-India Cantonments Association made a suggestion in this respect that the posts of Executive Officers reserved for Indians be in future filled up by an open competitive examination to be held by the Public Service Commission, in such subjects the knowledge of which may be essential for the proper discharge of the duties of an Executive Officer?

(e) What action have Government taken on this suggestion? If no action has been taken so far, do they propose to take any, and if so, what?

Mr. G. M. Young: (a) The total number of whole-time Executive Officers at present in the Cantonments is 59, of whom 16 are Indians.

(b) and (c). There are two grades of Executive Officers; Grade I officers holding the King's Commission and Grade II Indian officers holding the Viceroy's Commission. The latter class was inaugurated experimentally a few years ago; and the experiment has proved so successful that Government contemplate increasing gradually the number of Grade II officers and reducing the number of Grade I officers proportionately.

(d) Yes.

(e) The whole question is under consideration in connexion with the recommendations of the Army Retrenchment Sub-Committee.

REPRESENTATION OF THE PEOPLE OF CANTONMENTS ON THE ROUND TABLE CONFERENCE AND ITS COMMITTEES.

366. *Sirdar Sohan Singh: (a) Are Government aware that the All-India Cantonments Association has consistently urged, in every constitutional manner, the need for giving the people of the Cantonments of India, separate representation on the Round Table Conference and its Committees?

(b) Will Government please state the reasons that led them to ignore the Cantonments claim as far as the Round Table Conference was concerned?

(c) Do Government propose to have a representative of the Cantonments on the Franchise Committee of the Round Table Conference?

(d) Are Government aware that the Cantonments people number about a million and have special interests of enormous magnitude and a special law governing the cantonment administration?

(e) How do Government propose to secure a representation and consideration of the special problems of the Cantonments people, if no representative of theirs is taken in the Franchise Committee?

The Honourable Sir George Rainy: (a) and (b). I would invite a reference to the reply which I gave to Mr. Bhuput Sing's unstarred question No. 18 on the 26th January, 1931.

(c), (d) and (e). I have already explained in reply to Mr. Bhuput Sing's question No. 178 on the 10th February that the nominations to the Franchise Committee were made by His Majesty's Government; that the desirability of making the Committee as far as possible representative of important interests and of responsible public opinion was recognized, and that subject to the limit of numbers which was necessary if the Committee was not to become of unmanageable size, every effort was made to secure this result. I might add that it is always open to the Committee to receive representations from any interests not actually represented on it.

RESUMPTION BY GOVERNMENT OF SITES OF BUNGALOWS IN NOWSHERA.

367. *Sirdar Sohan Singh: (a) Is it a fact that Government resumed last year the sites of four bungalows at Nowshera, with the buildings standing thereon, by a forced entry into the bungalows at the expiry of a month's notice to the owner?

(b) Did the All-India Cantonments Association protest against this method of resumption and urge the re-transfer of the land to the owner?

(c) Is it a fact that the owners of the bungalows contested the right of Government to resume the sites and protested against the forcible occupation of the site and the building?

(d) Will Government state:

(i) if the land under the above four houses was an old freehold or leased land;

(ii) if the former, how Government appropriated to themselves the right of resumption; if it be a case of leased land, whether Government will refer to the particular term or terms of the lease under which the resumption proceedings were taken;

(iii) why no compensation was paid for the buildings standing on the sites;

(iv) how Government justify resumption by force; and

(v) why Government did not file a suit of ejectment and establish its right of resumption?

(e) Are Government aware that there is great resentment and discontent among the house-owners at this way of taking possession of land and property in private possession?

(f) Will Government please state in how many cases land has been resumed by the above method of 'forced entry' since 1924?

(g) Is it a fact that one of the objects, stated at the time, the new House Accommodation Act was enacted in 1923, was the protection of the interests of the house-owners?

(h) Are Government aware that the present feeling of the house-owners is that their rights are being trampled on every possible plea and the resumption of sites in the way stated above is cited as a typical example?

(*i*) Do Government propose to reconsider their policy in this connection and to direct that no land be resumed by force as mentioned above?

(*j*) Will Government state the purpose for which resumption has been decided upon in the case of these four bungalows?

Mr. G. M. Young: (*a*) Government resumed the four sites and the derelict buildings standing on them. There was no forced entry.

(*b*) Yes.

(*c*) One of the proprietors disputed the legality of the resumption.

(*d*) (i) The land was held on lease.

(ii) The resumption was made under clause 27 of the lease.

(iii) The buildings were derelict.

(iv) No force was used.

(v) The right to resume was clearly stated in the lease.

(*e*) and (*f*). Government have no information.

(*g*) Yes.

(*h*) Government have no information.

(*i*) No.

(*j*) The sites were required for the construction of accommodation for military officers, the housing situation at Nowshera being acute.

LISTS OF CONDONED PLATFORMS ANNULLED BY THE NORTHERN COMMAND.

368. ***Sirdar Sohan Singh:** (*a*) Is it a fact that the Northern Command has in a recent letter annulled the lists of condoned platforms prepared by the Cantonment Board of Ambala in 1926 and 1928 and in force since those years and has directed that body to recognise only such platforms as are given in the General Land Register?

(*b*) Is it a fact that the All-India Cantonments Association brought to the notice of Government by a resolution discussed with the Army Secretary in June 1929 that the Special Land Officer, Ambala, who was responsible for the preparation of the General Land Register placed arbitrary restrictions in the condonement of platforms in opposition to the spirit and meaning of the Government of India Circular No. 31622/1 (A.D.), dated 19th February, 1926, on the subject?

(*c*) Is it a fact that the Army Secretary gave a definite assurance on that discussion, that the Lists of the condoned platforms prepared by a Cantonment Authority would stand as that authority was the only authority empowered to interpret and apply the Government of India circular referred to above?

(*d*) Do Government propose to ask the Northern Command to withdraw its letter annulling the lists prepared by the Cantonment Authority of Ambala, in pursuance of the assurance mentioned in part (*c*)?

Mr. G. M. Young: (*a*) and (*d*). The information has been called for, and a reply will be laid on the table in due course.

(*b*) and (*c*). Yes.

APPOINTMENT OF AN ASSISTANT SECRETARY TO THE AMBALA CANTONMENT BOARD.

369. ***Sirdar Sohan Singh:** (*a*) Is it a fact that the Cantonment Authority, Ambala, has by a majority of votes decided to create the post of an Assistant Secretary in Ambala Cantonment involving an additional expenditure of about Rs. 5,000 a year and has applied to the Northern Command for a formal sanction of the new post?

(*b*) Will Government please state what has necessitated the creation of the post?

(*c*) Are Government aware that Executive Officers in the past eight years since the introduction of the new Act have been conducting the cantonment administration without any assistant?

(*d*) Is it a fact that when the proposal to create the post was originally brought forward, there was no report of the present Executive Officer as to his requiring an assistant for carrying on his duties?

(*e*) Will Government be pleased to state if in Cantonments of similar size and income, an Assistant is provided to the Executive Officer, and if so, which are those Cantonments?

(*f*) Is it a fact that the Ambala Cantonment Authority is seriously considering the project of its own water works which would entail not only a considerable expenditure at the outset but an appreciable increase in recurring expenditure?

(*g*) Is it a fact that the Northern Command, at the instance of the Government, issued a Circular on the 17th December, 1931, that the expenditure should be curtailed and posts should be reduced as far as possible?

(*h*) How do Government reconcile the proposal to create the post of an Assistant Secretary with the instructions conveyed in the above Circular?

(*i*) Is it a fact that the people of Ambala have through their representative bodies protested against the creation of the post as unnecessary and unjustifiable and such protests have already been submitted to the Northern Command?

(*j*) Do Government propose to issue instructions to the Northern Command not to sanction the post or at least to keep the proposal in abeyance till the present economic conditions improve?

Mr. G. M. Young: The appointment of an Assistant Secretary is a matter within the discretion of the Cantonment Board subject only to the financial sanction of the General Officer Commanding-in-Chief. Government do not propose to interfere.

AGE-LIMIT FOR APPOINTMENT OF CANTONMENT FUND EMPLOYEES.

370. ***Sirdar Sohan Singh:** (*a*) Will Government please state if there is any age-limit fixed in the case of the appointment of Cantonment Fund employees?

(*b*) Is it a fact that in the absence of this limit, proposals to appoint persons of more than 40 years of age are brought forward before the Cantonment Authority and are not unoften sanctioned by those Authorities?

(*c*) Do Government propose to fix a certain age-limit in the case of new appointments in Cantonment Fund Service and to direct that appointments of persons exceeding that limit be made only with the previous and special sanction of the Government in exceptional cases?

Mr. G. M. Young: (*a*) The answer is in the negative.

(*b*) Government are not aware of the practice of individual Cantonment Authorities in this matter.

(*c*) As no age-limit is prescribed for non-pensionable Government servants, Government do not propose to impose any restriction in this respect in the case of Cantonment Fund servants.

CHARGES OF BRIBERY AND CORRUPTION IN AMBALA CANTONMENT.

371. ***Sirdar Sohan Singh:** (*a*) Have Government received a representation from the "Residents Association", Ambala Cantonment, bringing to their notice the acts of a certain member of the Cantonment Board of Ambala which apparently bring him within the purview of section 34 of the Cantonments Act?

(*b*) Is it a fact that a request has been made therein for an early and independent enquiry into the alleged charges of corruption and bribery made therein?

(*c*) Is it a fact that the said Association is willing to co-operate with Government in the conduct of the above enquiry?

(*d*) What action have Government taken on this representation?

(*e*) Do Government propose to avail themselves of the assistance offered by the said Association in the matter; if so, have Government written to the Association to that effect; if not, do Government propose to do so?

Mr. G. M. Young: (*a*) and (*b*). Government received an anonymous pamphlet followed by a letter purporting to come from an association of the name mentioned. Government have no knowledge of any such association.

(*c*) Government have no information. Action under section 34 of the Cantonments Act can be taken only by the Local Government.

(*d*) None.

(*e*) The answer is in the negative throughout.

RESOLUTIONS PASSED BY THE ALL-INDIA CANTONMENTS CONFERENCE.

372. ***Sirdar Sohan Singh:** (*a*) Are Government aware that the All-India Cantonments Association has made a request to the Army Secretary, Government of India, for an informal discussion of the resolutions passed in the session of the All-India Cantonments Conference held in October, 1931 at Lahore Cantonment?

(*b*) Is it a fact that a similar discussion was arranged with very useful results in June, 1929 with regard to the resolutions passed in the preceding session of the Conference held in April, 1929, at Jubbulpore?

(*c*) What reply have Government sent to the Association about this request? If no reply may have been sent, do Government propose to fix early dates for this discussion?

Mr. G. M. Young: (*a*) and (*b*). Yes, Sir.

(*c*) No reply has yet been sent but Government will in due course invite the Association to send representatives to a discussion.

SUPPLY TO THE ALL-INDIA CANTONMENTS ASSOCIATION OF IMPORTANT GOVERNMENT CIRCULARS.

373. ***Sirdar Sohan Singh:** (*a*) Is it a fact that Government were pleased to hold out an assurance to the All-India Cantonments Association that they would supply copies of the important circulars of the Government of India about Cantonment Administration to the Association?

(*b*) Is it a fact that copies of very few circulars, if any, have been supplied to the Association so far, in pursuance of the above assurance?

(*c*) Is it a fact that a large number of circulars of far-reaching importance with regard to the determination of the respective rights of the house-owners and the Government in Cantonment land and about Cantonment administration generally, have been issued by Government, since the introduction of the new Cantonments Act of 1924?

(*d*) Is it a fact that action in various directions is being taken by the officers of Government in giving compliance to the above circulars and are Government aware that the house-owners and the Cantonments people in general are seriously handicapped in meeting the references of Government officers issued under those circulars, for want of knowledge of the contents and the true implications of those circulars?

(*e*) Do Government propose to codify the circulars so far issued and make them available for the people of Cantonments or at least to supply copies thereof to the All-India Cantonments Association on payment or free as Government may think desirable?

Mr. G. M. Young: (*a*) Yes.

(*b*) The Association is supplied with copies of all important non-confidential communications issued in connection with Cantonment administration, especially those concerning amendments to the Cantonment Act and the rules framed under it.

(*c*) The number of such communications is not very large.

(*d*) and (*e*). Government are not aware of any inconvenience caused to residents in Cantonments by the want of copies of such instructions. Government do not accordingly propose to codify them.

PETITIONS RELATING TO THE HINDU MARRIAGE DISSOLUTION BILL.

Secretary of the Assembly: Sir, under Standing Order 78, I have to report that twenty-seven petitions, as per statement laid on the table, have been received relating to the Bill to remove certain doubts regarding the dissolution of marriages of persons professing the Hindu religion which was introduced in the Legislative Assembly on the 27th January, 1931, by Sir Hari Singh Gour.

STATEMENT.

Petitions relating to the Bill to remove certain doubts regarding the dissolution of marriages of persons professing the Hindu religion which was introduced in the Legislative Assembly on the 27th January, 1931.

Number of signatories.	District or Town.	Province.
11	Monghyr	Bihar and Orissa.
1	Sholapur	Bombay.
11	Do.	Do.
7	....	Madras.
13	Muttra	United Provinces.
13	Do.	Do.
3	Kamrup	Assam.
9	Do.	Do.
12	Benares	United Provinces.
1	Kathiawar	Bombay.
12	Benares City	United Provinces.
1	Bhuleshwar	Bombay
2	....	Do.
12	Lakhimpur	United Provinces.
11	Agra	Do.
9	Pakur (District S. P.)	...
17	....	Bihar and Orissa.
16	....	Do.
15	....	Do.
10	....	Bombay.
5	....	Do.
73	Monghyr	Bihar and Orissa.
1	Shahabad	Do.
6	Do.	Do.
3	Do.	Do.
5	....	United Provinces.
2	Kathiawar	Bombay.
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THE INDIAN INCOME-TAX (SECOND AMENDMENT) BILL—*contd.*

Mr. President: Further consideration of the following motion moved by the Honourable Sir George Schuster on the 9th September, 1931:

"That the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes, be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Sir Hari Singh Gour, Sir Cowasji Jehangir, Mr. S. C. Mitra, Mr. Md. Anwar-ul-Azim, Mr. L. V. Heathcote, Mr. N. N. Anklesaria, Sir Abdullah Suhrawardy, Raja Bahadur G. Krishnamachariar and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. L. V. Heathcote (Nominated Non-Official): Sir, may I ask if Sir Hugh Cocke's name can be substituted for mine in the Select Committee on this Bill?

Mr. President: Does the Honourable Member in charge agree to the substitution?

The Honourable Sir George Schuster (Finance Member): I have no objection, Sir.

Dr. F. X. DeSouza (Nominated Non-Official): Sir, I ask permission to intervene in this debate at this late stage because on such a technical subject as the Indian Income-tax law I did not care to rush in where much wiser people were chary to tread. As I understand the Bill, Sir, it embodies some very desirable features, and one very highly objectionable feature. The Bill has the effect, as I understand it, of penalising foreign enterprise by Indian nationals. By making residence alone the source of liability foreign incomes are made liable to income-tax whether arising from securities, stocks, shares or rent or from profits of business, and whether the income is brought into British India or not. That, Sir, is the result of this Bill. On the other hand the English Act has engrafted one exception to the rule of making residence alone the test of liability by providing that in the case of a person ordinarily resident in the United Kingdom, income arising from business wholly carried on abroad which is technically known as income from foreign possessions is made liable only to the extent that it is brought into the United Kingdom. The result is this Bill discourages while the English Act encourages foreign enterprise. The enterprise of Indian traders such as "Sindwarties" will decidedly receive a check if this Bill becomes law.

An Honourable Member: We want capital ourselves.

Dr. F. X. DeSouza: My Honourable friend says we want the capital ourselves but if there are better outlets for our traders abroad, we should avail ourselves of these outlets. The English Income-tax Act, as I understand it, has not discouraged the trade of English nationals because as I have said, the income derived from foreign possessions is exempted from income-tax. If therefore the Bill is amended in Select Committee so as to engraft this exception provided by English law on the Indian law also, then I shall have no objection to vote for this Bill. But if this provision is allowed to stand in this Bill as it is, then I reserve to myself the right to vote against the Bill on the third reading.

[Dr. F. X. DeSouza.]

In other respects I think the Bill is an admirable one. There is no doubt in my mind that there has been a flight of capital from this country for several years past. Last year it was computed that as much as 30 crores of rupees had been sent away from this country. There is undoubtedly a great dearth of capital in our country. The vast resources of this country have got to be developed. Foreign capital is shy, whatever it may be due to, either political disturbances or to any other reason; and most of our Indian capital, what little there is, is hoarded. And I do not think that what little fluid capital there is in this country should be allowed to go to foreign countries. It should be retained in this country for the purpose of fructifying the resources of our own land.

It was said that the real reason for the flight of capital from this country is not to evade income-tax but that there were other causes, such as a gamble in exchange or the political disturbances that arise in this country which do not make the retention of capital safe. I do not say that the intention to evade income-tax is the only reason why capital has fled from this country. I may inform the House, however, that a leading banker in London informed me in 1928 that in consequence of the civil disobedience movement the 5 per cent. tax-free English War Loan had very great attractions for the Indian investor, and I must say that I myself fell a victim to the allurements of the 5 per cent. War Loan. And if this Bill is passed into law, I myself stand to lose a certain amount of money. But that certainly is not the consideration which weigh with me, nor do I think it is a consideration which will weigh with any Honourable Member of this House, as we come here not to consult our own personal interests but the larger interests of the country. But so long as the present law continues, that is, income invested abroad is free from income-tax, then obviously as long as there is a chance of evading foreign income-tax as well as the income-tax of this country, the tendency of the capital will be to remain outside and not to be brought back to this country.

There is one remarkable feature of this debate, Sir, which I do not know if Honourable Members have properly appreciated and it is this, that the Members of the Government Benches, and more especially of the front Treasury Bench, stand to lose a great deal of money if this Bill becomes law. I take it that most of them have savings invested in their home country and one of them, I believe, has a colossal fortune invested there. They will be taxed very heavily on incomes arising from these investments if this Bill is passed into law. And if they support it, it is obviously because they think it is in the best interests of the country. At a time when the selfishness and cupidity of the British official is the topic of the hour, I think this aspect of the Bill should be brought to the notice of the Assembly and through the Assembly to the notice of the country.

Sir, I shall come now to one or two of the objections which were raised against the Bill by several Honourable Members who have previously spoken. The first objection was that incomes derived abroad may be liable to double taxation. My Honourable friend the Finance Member has explained that so far as investments in the United Kingdom are concerned, section 49 of the Income-tax Act provides that refunds would be easily obtainable, and in this respect I have no doubt that the Inland

revenue authorities would co-operate with the Finance Member to see that the Indian income-tax is not evaded; and so far as Indian States are concerned, it appears from a notification issued by the Government of India under section 60 of the Act, that similar arrangements have also been made with certain Indian States also. If a person chooses to deal with a State which does not grant such a relief, of course it is for the investor himself to take his chances of investing money there.

After all it is inevitable that when you have dealings with foreign States, you are liable to double taxation. British subjects owning lands in Indian States—and I am in that unfortunate position—habitually pay double taxation; they have to pay agricultural assessment to the Indian States and they have to pay income-tax to the British Government on the profits of agriculture, whether those profits are received in British India or not; and if the Honourable the Finance Member is going to pay heed to the plea of double taxation, I would respectfully urge that he should take cases like these into consideration before he acts on such a plea.

My Honourable friend, Mr. Arthur Moore, in his very able and illuminating speech referred to the injustice of making a British officer serving in India pay income-tax on income from his own private means invested in England and not brought out to this country. But Mr. Arthur Moore forgot to bring to the notice of the House that the British officer by residing in India escapes British income-tax altogether. Is it too much to ask a British officer to pay his quota to the Indian Government for maintaining the *Pax Brittanica* of which he himself is the greatest ornament? . . . . .

Mr. Arthur Moore (Bengal: European): I think the Honourable Member is incorrect.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): He has been incorrect right through the speech.

Dr. F. X. DeSouza: I think if the British officer does not reside in the United Kingdom he escapes liability to English income-tax.

An Honourable Member: No.

Dr. F. X. DeSouza: He certainly does escape liability to the English income-tax: for instance, take the 5 per cent. War Loan. Most decidedly he does.

Sir Cowasji Jehangir: That is the one exception for everybody; do you not know that?

Dr. F. X. DeSouza: It is one of the best investments going. Then, Mr. Arthur Moore said that this legislation should not be enacted at a time when we are on the eve of constitutional reforms and that we should wait till the question of whether income-tax should be a local tax or a State tax or a Federal tax is determined. I believe the Federal Finance Committee is now sitting and is considering the question. But if we wait till the Federal Constitution begins to function, a good deal of the capital of this country would have fled away and it will be very much like shutting the stable door after the steed is stolen.

[Dr. F. X. DeSouza.]

One aspect of Mr. Arthur Moore's speech I could not quite follow. He said that at an earlier stage of this Bill when Europeans domiciled in England but resident in India were to be exempted from the tax, he opposed it, not indeed on the ground of its manifest unfairness but because it would be an embarrassing privilege gratuitously thrust upon him, which would disable him from fighting against unfair discrimination at the Round Table Conference. That is a very frank expression of his attitude and I can quite understand it. But now that the Finance Member has taken away this privilege and has made Europeans resident in this country liable as any other Indian capitalist; he says he is going to oppose it on the same grounds as the Indian capitalist. All that I need say is that adversity has made very strange bed-fellows in this case.

I am not an expert in income-tax law; I know very little of finance; but I have done my best to study the provisions of this Bill in the best interests of this country; and although, as I have said I stand to lose a certain amount of money by supporting this Bill, I shall vote for it, provided of course the Finance Member gives an undertaking that the law will be assimilated to the English law by providing that income from "foreign possessions" will be exempted from income-tax. That is all I have got to say.

Diwan Bahadur T. Rangachariar (South Arcot *cum* Chingleput: Non-Muhammadan Rural): Sir, it is with great regret that I rise to oppose this motion before the House. The regret is that I very strongly approve of the principles underlying the Bill, but I consider it is my duty on this occasion that I should not give support to this measure before the House on altogether different grounds. I consider the Government have awakened at last to the necessity of bringing in a measure of this sort in not allowing people to escape just taxation. There are many rich people who have escaped this just taxation for many a long year. All the same I consider this is the opportunity for us to give a warning to Government, a Government which indulges in the very happy expression of dogs barking and the caravan moving. Sometimes dogs bark and warn us of grave danger, and many a time I am sure my Honourable friends opposite who led a camp life have been warned of grave risks by the barking of dogs. I consider this the only occasion on which this House will exercise its constitutional right of refusing supplies to a Government where it feels honestly that it is wanting in moral sense, or rather that its moral sense has become blunt. I thought that since the years 1922 and 1923 we had so far progressed that the mentality of issuing crawling orders had disappeared. But that expectation appears to be in vain. I am convinced that the moral sense of the Government of this country is getting blunt, if not actually disappearing, and that is why I warn the Government of the grave danger they are running in the policy they are pursuing—at any rate if they are not pursuing it, they are allowing their agents to pursue it. I consider it is my duty to record my vote against this Bill, as I told you already, not because I condemn it on its merits, although I have a party mandate placed before me that I should vote against the Bill—I do not do so on that ground —I do not know on what ground my party has decided to vote against this Bill—but I have decided for myself that I should give a warning to Government. Sir, I come from a province where grave instances have occurred,—I will not say excess of use of authority under the Ordinances, but gross

abuse of authority has occurred under the very nose of the Government, and the Government have not taken steps to set right the wrong, if that wrong can be set right at all. I have two instances in view, though I can quote numerous instances. Any person who hears or reads of those instances or witnesses those instances cannot but burn with anger and indignation and hang down his head in shame,—such instances have occurred in a Government of which we have been hitherto proud. I refer to the cases of Dr. Paton and also the case of the *thali* incident in Malabar. Sir, persons belonging to these parts of India perhaps do not know the significance of the *thali* as much as we do in the South. The *thali* is considered so sacred that even professional robbers, the Kallars, Marwars and Thewars consider it part of their code of honour that when they denude the woman in the house of everything she possesses, they will leave the *thali* alone. We have heard of tyrannical Dravidian kings in the South; even they used to dread to remove the *thali* without substituting something for it at any rate. Those of us who have lived in the South will be familiar with the expression "*Marathali Ketti Adithan*"; that is to say, they would substitute the wooden *thali* for the golden one; but they would not remove the *thali* altogether; they would rather put a wooden *thali* and make the woman wear it. Now, Sir, that an officer should have dared to remove the *thali* of a married woman and yet hold office for weeks together so far passes one's comprehension. It is not as if the Government were not unaware of this wrong; it is not a wrong which can be set right. It is a crime of the worst kind which can be committed. Sir, when a woman has the misfortune to lose her husband and her *thali* is to be removed, this thing is done when all people are dead asleep, and children leave the house. This ceremony takes place in the early hours of the morning between 2 and 3 on the 10th night after the husband's death. This *thali* is removed by the hand of another widow; at that time all married women leave the house, and the *thali* is removed very quietly because the wail of a woman who parts with that *thali* is so deep that one dare not hear it. Now, Sir, what has the Government done, a Government which is not an ignorant Government, which is composed both in the Government of India and in the Madras Government of Indian Members, to set right this wrong? I should have expected the Home Member to have gone to the spot, held an inquiry on the spot and made an example of the officer who dared to commit this crime. Sir, what are the Government doing? They are calling for a Report; it is now more than a month.

Mr. K. Ahmed: What has this got to do with the Income-tax Bill?

Diwan Bahadur T. Rangachariar: I have a soft corner for the Finance Member, but I am sorry I have to oppose this measure, though perhaps for this crime he is not so much responsible as other Members of Government; but still he belongs to a system which I am condemning. It is not a question of the Finance Member's Bill or any other Bill; it is a question of supplies to a Government which is wanting in moral sense. And, Sir, as I was saying, the Government are calling for a Report. This is what they have done. It is not a case in which the public will be satisfied with any private censure which may be conveyed to the officer concerned. That noble service which has constructed the edifice of the Government of this country ought to rise with one voice against an officer belonging to that service who has been bold enough to commit a crime of this sort, but they

[Diwan Bahadur T. Rangachariar.]

will not do so because they are afraid. Government would have taken steps earlier if we had a Sir James Thompson here. Although he belonged to the Civil Service, when he was head of the Madras Government, he had no hesitation, when another member of the Civil Service misbehaved, in calling him to account and making him apologise for it publicly. We want men of that sort to take note of conduct of that sort. Sir, my friends over there are urging for a strong Government. No Government which is not strong is entitled to hold the reins of Government. I quite agree, but what is a strong Government? A strong Government is one which can govern itself in the first place; in the second place which can govern its own household before it chooses to govern the rest of the country. I ask this Government to govern its own household. I quite realise the difficulties of the Home Member over here or in Madras in dealing with a situation like this where they have to depend upon thousands of agents who have to discharge their very unpleasant functions. But, Sir, that itself is a reason why they ought to be more careful, and when they find abuses of this sort, they ought to come down on such officers with a tremendous force so that such things may not be repeated. I do not believe that a Government which is afraid of its own officers, which is afraid of punishing its own officers, is a strong Government. I rather guess that is the real reason why they have not taken steps in the way in which they should have done.

Sir, I refer to Dr. Paton's case. He is not my countryman; he does not belong to my community; he is a humane worker in the villages of Madras. He saw some accounts of the way in which things were being done in Madras, and he came to see for himself what was going on. He walked down the street known as the Rattan Bazar Street, and he was accosted. I do not know whether he is a Scotchman or Englishman, but he put on sandals or *chappals* as we call them, and walked along the street to see things for himself. He had a hat on; but he had other clothing also which indicated that he either belonged to some missionary body or to the Salvation Army. He is a missionary doing village work. He was accosted by the police sergeants, and he was beaten. Beaten, he walked home lame; immediately the whole matter was reported to the Chief Secretary. This happened in the city of Madras. Then the very next day they foisted a false case upon him, a deliberately false case, before the Magistrate. Afterwards the case was withdrawn. And yet what is done? What is done to the people who maltreated him like that? If such a thing could happen to a European British subject in this country and that goes unpunished, you can as well imagine what can happen to poor Indians. What have the Government done? Their moral sense is lacking, is getting blunt. Such a Government do not deserve supplies; that is the short straight ground on which I refuse to vote for this Bill. This is the only occasion on which any Finance Bill will be coming before this Assembly. The usual Finance Bill will not come up before this Assembly. So, while I do so with regret, I have no hesitation in voting against this measure on the short straight ground that a Government which can allow things to go on like this does not deserve any financial support. On that ground I oppose this motion which is before the House.

Mr. Abdul Matin Chaudhury (Assam: Muhammadan): Sir, I want to take this opportunity to explain why I have decided to remain neutral on this occasion. I am perfectly satisfied that the principle of the Bill is

essentially sound. In spite of the barrage of smoke screen that was raised by the heavy batteries that were fired the other day, the issue before the House is very clear, simple and plain. This Bill aims at bringing under the provisions of the Indian Income-tax Act the income derived from foreign investments. This is a simple proposition, a sound proposition and a reasonable proposition. Still there has been considerable opposition in this House against this measure. I can understand the opposition of a certain section of this House, the section that is represented by the European capitalists and the Indian capitalists. Dodging the income-tax collector is considered a legitimate game according to the superior ethics of high finance but I do not understand why the general body of Members of this House should be a party to helping these people to evade income-tax. My Honourable friend Mr. Mody may accuse me, as he accused my Honourable friend Mr. B. Das the other day, of expounding crude economics, but my belief is that to starve India of the capital that she needs for her development and to export it to foreign countries is unpatriotic. It accentuates unemployment in the country. It deprives Indian workers of the means of earning their bread, and I do not want to be a party and the House will not like to be a party to aiding and abetting these foreign investors in their unpatriotic adventures. There is another consideration. To the extent that these commercial magnates and their Indian allies are made to pay from their inflated pockets . . . . .

Mr. H. P. Mody: Are there any inflated pockets left now?

Mr. Abdul Matin Chaudhury: Still they are bulging.

Mr. H. P. Mody: There are big holes in the pockets. They are not inflated.

Mr. Abdul Matin Chaudhury: To that extent, there is the possibility of the poor taxpayers in the country being relieved of their burden or at least their burden not being added to. If you prevent the Finance Member from taxing the rich, you cannot turn round and blame him when, because of that, he is forced to tax the poor. I have nothing but admiration for the splendid tenacity with which the Honourable the Finance Member is carrying on this lonely fight. He has antagonised the European Group, several Local Governments are opposed to him; and I have a suspicion that even among those Honourable Members who are sitting behind him, he does not carry their hearty support, but still as against the combined opposition of his own compatriots he is stoutly defending, on this occasion, the interests of the general Indian public, and I think it is the duty of every one who has got the interests of the general public at heart to stand by him at this juncture. Unfortunately, I have got to be neutral because my party has decided otherwise. Few Members are more reluctant to walk into the official lobbies than myself, but on this occasion I would have done so most gladly, but my party decision stands in the way and I have been forced much against my will to remain neutral, not from conviction but by the tyranny of party majority.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): This Bill has been very fully debated, and I do not think I should feel justified in taking up much of the time of the House. I may say incidentally, if you will permit me and the House will permit me, that we are very glad to find my Honourable friend Diwan Bahadur T. Rangachariar again in his seat, and we hope that he will continue to add to the value of our debates by his weighty words.

[Sir Abdur Rahim.]

Sir, as regards the merits of the Bill, I do consider, speaking for myself, that the proposition that income derived by Indian nationals from their investments or business abroad should be liable to taxation like all other incomes of men residing in this country, is a sound one, and in ordinary circumstances I should have been perfectly willing to give my whole-hearted support to this measure. There are no doubt other considerations, for instance, whether it is advisable for us to handicap our own men in doing business in other countries. So far as business in England is concerned, and also possibly in Indian States, I believe there is an arrangement for refund in case of double taxation, but as regards other countries I do not think any such arrangement has yet been arrived at, and it may be very difficult to conclude such an arrangement. So far, therefore, as business with foreign countries is concerned, Indians, whatever little business they are doing at present, will be extremely handicapped if this Bill is passed. At the same time, the principle of the Bill to my mind is perfectly all right, but what is troubling me at present and a great many other members of my party is that we have just recently allowed the Finance Member to add very largely to the taxes and tariffs, and we are not persuaded that there is any necessity for adding further to the taxation of the people. I do not think—and I listened to the speech of the Honourable the Finance Member when he introduced the Bill with great care—that he sought to make out a case for adding to the taxes of this country. That to my mind is a very weighty consideration for not giving our support to the passing of such a measure at the present moment. Sir George Schuster was unable even to give us a fair estimate of the amount of revenue he sought to derive by this Bill. He could not, he told us in his speech, make a proper estimate. I think he said it was impossible to make an estimate of what would be the proceeds of a measure like this. Nor has he told us, as I have already stated, whether there is need for further taxation, and I do not think he has assured us that if this Bill was passed into law that the scale and level of taxation in other directions would be reduced proportionately. I do not see therefore that he is justified at present in bringing forward this measure.

As regards the flight of capital from India, it is quite easy to speak of it in general terms, but I do not think we have been given any data by which we can arrive at any accurate estimate of the flight of capital that has been taking place. No doubt as an Indian, I should be strongly concerned to see that all the capital that is available here is invested in the country and that India and Indian Labour, as my friend Mr. Abdul Matin Chaudhury has pointed out, should derive full benefit from investments in the country. But at the same time it may not be desirable for any country to put obstacles in the way of its nationals doing business in other countries. No other country attempts that. (*Sir Hugh Cocke* "Hear, hear".) I am very glad to hear my friend Sir Hugh Cocke say "Hear, hear". I believe it was one member of his group in this House that pressed the Honourable the Finance Member very strongly to extend the basis of taxation in this country. I wonder if he contemplated this sort of extension of the basis of taxation because, I understand, the European Group is opposed to this measure and very naturally so, because they are likely to suffer. At the same time, having regard to the fact that we are not convinced of the necessity of a Bill of this sort at the present juncture, having regard to the fact that the Finance Bill was passed in spite of opposition and in spite of the amendments we sought to make to it in this House, we as a party would oppose the passing of this measure to the Select Committee.

Mr. C. C. Biswas (Calcutta: Non-Muhammadan Urban): The House may remember that in March last when the Honourable the Finance Member introduced this Bill, I was one of the first to raise my voice of protest against it, and I moved for circulation of the Bill for opinions. I gladly acknowledge that my Honourable friend Sir George Schuster, when he noticed the volume of feeling which the Bill had evoked, readily acceded to the request for circulation. The Bill has since been circulated. Opinions have been received, and I think, Sir, it is a striking vindication of the attitude which we had taken up then that the opinions so far received disclose but a very few persons who have blessed this Bill. It was an obnoxious measure in every way, and if I may say so, it still remains an obnoxious measure, notwithstanding an assurance which I understand the Honourable the Finance Member gave in September last at Simla regarding one particular feature of the Bill, which did look like introducing a principle of unfair discrimination. I refer to the discrimination between persons resident and domiciled in India and persons resident but not domiciled in India. Sir, I was not present when Sir George Schuster gave that assurance, nor have I before me the terms in which that assurance was conveyed, but I gather that what he said was that he would agree not to treat this particular provision of the Bill as a question of principle, and that it would, therefore, be open to the Select Committee to amend or delete that provision, if it so desired. We must be thankful for small mercies, and it is a matter for thankfulness that we have at last succeeded in persuading Sir George Schuster that there is real injustice involved in the seemingly innocuous provisions of clause (*c*) of the proposed new section 4 (*1*), as distinguished from clause (*b*). Assuming for the moment that assurance is given effect to in Select Committee, what would be the result now? No doubt members of the European community who were sought to be exempted before, would now come within the mischief of the Bill but while you are trying to remove the exclusion of one class of persons, you would be at the same time bringing in another class of persons, and quite a large class, within its provisions. I refer to the thousands of subjects of Indian States residing in British India. I find, Sir, that my friend, Sir Cowasji Jehangir, went very fully into that aspect of the matter, and I do not propose to traverse the same ground. As to whether or not, in view of the assurance of the Finance Member the Bill can now go to Select Committee, is a question of procedure on which you, Sir, are alone competent to give a ruling, but apart from that, whether if can go to Select Committee or not, you cannot get away from the fact that the Bill, if it is amended in the way indicated by Sir George Schuster, would certainly not be the Bill which was before the House when it was introduced. The Bill would have been altered in a very material particular and it would affect a large class of persons who had no notice about it who had so far regarded themselves as perfectly safe, and who had no opportunity given to them of expressing their views upon the measure as it would touch them. That I do not consider to be fair. Therefore, Sir, the least which my Honourable friend the Finance Member can do is at any rate to agree to re-circulate the Bill for opinion, if he will not drop it outright. If I might venture to make an appeal to my Hon-

12 NOON. ourable friend, I would really ask him to drop the Bill altogether (Hear, hear), and I put my case on broad grounds. What, after all, is the purpose of the Bill? Is it additional revenue, or is it to stop or check the flow of capital out of the country, or both? The Statement of Objects and Reasons appended to the Bill refers to both these considerations,

[Mr. C. C. Biswas.]

without laying any special emphasis on one aspect rather than on the other. But, Sir, we need not be in any uncertainty as to what Sir George Schuster really meant, and we might turn to another quarter for surer light. Sir, in his Budget speech of 1931, the Honourable the Finance Member was pleased to foreshadow this legislation, and in paragraph 89 this is what he said:

"I will only say that we intend to introduce legislation this session for the taxation of income from foreign investments on the lines of the law now prevailing in the United Kingdom. This legislation, if passed, may bring in some additional revenue, but I have not made any allowance for this in the budget estimates. Our *primary purpose* will be to remove an incentive towards the export of capital, which is extremely detrimental to Indian interests."

Sir, that, then, is the primary object of the Bill—to remove an incentive towards the export of capital which is extremely detrimental to Indian interests. Sir, I do not pretend to speak with authority on the subject, but speaking as an ordinary man of common sense, it seems to me that if it is sought to achieve such a purpose by means of an additional impost, it has got to be shown that the flight of capital out of India has been stimulated or encouraged by reason of the absence of such impost so far. Has that been done? Where is the evidence in support of that? What have we got before us except an *ipse dixit* of the Honourable the Finance Member that this possibility of escaping the payment of income-tax has been the chief influence which has led to the outflow of capital from India? Sir, my Honourable friend knows much better than any of us here what are the real factors operating either to coax or to force capital out of the country. Not this non-payment of income-tax, surely. I say, take the real measures which will help to improve the situation in that respect. I say, try and steady exchange, try and tone up your gilt-edge market, try and create confidence in your investors that they may stick to their holdings in India. Embark upon open market operations, not merely in respect of your Indian rupee securities here, but also in respect of your sterling loans in London; try and improve your ways and means position. But my Honourable friend is not inclined to take any action on those lines, action which alone can successfully keep capital in India. Sir, if you are really anxious that capital should not fly out of the country you ought to take such steps as will bring about that result. If you do that, then you will also be getting in additional revenue, and that without having recourse to this dubious expedient of levying a tax on foreign investments. You will be getting that revenue under your existing income-tax law. That would be a more certain way of getting in revenue, if revenue be one of the objects of the Honourable the Finance Member.

Sir, I do not suppose that my Honourable friend, Sir George Schuster, with all his love and partiality for this new measure, is a supporter of double taxation. I did not hear his speech delivered in the Simla session, but from the report of the debate which took place this session here the other day, I find that the Finance Member was at some pains to explain how double taxation could be avoided. That shows he does not favour double taxation. If I am correct in my assumption, then may I ask him how his Bill will secure the object which he is supposed to have in view? Is it suggested that in nearly all the countries to which Indian capital is now emigrating, there is no income-tax payable at all? I find Sir George

Schuster was interrogated by some friends on that question, and he mentioned Kenya as one of such countries. I do not know how many other countries have advanced to that degree of enlightened progress that no income-tax has got to be paid, but I believe I am not far wrong in saying that in most countries to which Indian capital is now finding a way, there is income-tax payable, and in some countries the incidence of taxation is perhaps higher than the Indian rate of tax. Sir, if that be so, how is your new taxation going to act as a check or as a deterrent? I should have thought that, to be effective as a check and as a deterrent the proposed taxation should be not in lieu of, but in addition to, the taxation which is levied in the foreign country. If Indian capital has to pay income-tax in the foreign country, and if payment of such tax there secures relief from the payment of another tax in this country, where, then, would be the check, where would be the inducement not to send out capital? The assessee pays the tax once only whether here or in the other country. Sir, I say therefore that if the object which the Finance Member has in view is to be achieved then the income-tax must be an additional burden; otherwise it will not have at all a deterrent effect. But, Sir, if you are going to grant relief against double taxation, I fail to see how you can possibly use this Bill as a means to prevent capital going out of the country. Sir, I do not suppose that the Finance Member will say that he does not propose to grant such relief. In the Statement of Objects and Reasons he says that in introducing this legislation he has been attempting to follow the lines of the English law on the subject. I have not made a careful study of the English Income-tax law, but from the little that I have read about it, I gather that double taxation relief is a part of that law. It is recognised in section 27 of the Finance Act of 1920. My friend in fact knows much better than any of us about the elaborate provisions which exist there for relief against double taxation, in respect of the Irish Free State as well as of the Dominions. Therefore, I say, Sir, that you do not gain anything whatsoever by levying this new impost if, at the same time, you are going to give relief against double taxation. Do not for a moment think that I suggest that double taxation relief should, therefore, not be given. As a matter of fact, I am sure my friend himself will not adopt that view, because that would be contrary to the English system itself which he has set up as a precedent for himself. The object not only in England but in all other countries where you have income-tax laws is to mitigate the hardship to the tax-payers as far as practicable. Sir, speaking about this relief against double taxation, I must, however, point out that there is an ominous silence in the Bill itself regarding the provisions which it is intended to make for such a purpose. The only section you have now is section 49 of the existing Act, but it is limited to United Kingdom taxation. The Finance Member, I hope, will inform the House what arrangements he has in view in order to ensure similar relief in the case of other countries.

Then, Sir, there is just one other point in this connection. If you are going to, as you must, grant relief from double taxation, consider if it be not a wasteful expenditure of time and money in trying to collect a tax, the whole of which or the greater part of which will have to be repaid in due course. My friend will possibly reply that the refund will be granted in the foreign country, and not here. But there are also bound to be cases in which, on the analogy of the principle which you find in section 49 of the present Act, the Income-tax authorities in India will have to

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grant such relief. So, I say from this point of view one has got to consider whether or not all this time and money will not be thrown away for nothing. I do not desire to refer to some of the administrative difficulties, because the matter has been discussed very fully in this House. Those difficulties have been very forcibly pointed out by some of the previous speakers who have taken part in this discussion at some stage or other. They have been pointed out by experienced officers of the Income-tax Department in different parts of the country. It will not do to brush aside those difficulties with a wave of the hand. It is always dangerous to prophesy, but I do not think one would be a rash prophet if one were to say that it might turn out at the end of the day that we are after all out on an illusory chase, and that if we are trying to get some additional revenue, we should probably be losing very much more than we can ever hope to get. On abstract grounds I should be quite prepared to concede that there cannot be much objection to making residence the basis of taxation. That basis is already recognised in the Indian system though to a very limited extent, *viz.*, in section 11 sub-section (*3*). I am also prepared to concede that is likewise the basis recognised in England. But what is suggested here is this that residence will be a basis of taxation in addition to source or origin; that is, the place where the income accrues or is received. My friend may say that the same is the case in England as well but there is this difference, that if your Bill is passed into law, then the result will be that residence and origin will both equally be the basis of taxation here, but without those compensating advantages which the English law gives to non-residents. That point, I find, has already been made by Sir Cowasji Jehangir in his speech, although my friend Sir George Schuster tried to switch him off his line of argument by suggesting that he was speaking of non-resident, whereas this Bill was concerned only with resident. That is not the point, Sir. The point is that if you have residence and origin equally as your basis of taxation, then, as in England, we have a legitimate right to ask, what are you going to do to provide these compensating advantages which the English law gives to a certain class of persons? The English law does contain provisions giving substantial relief to non-resident. But you do not find either in your existing Indian Income-tax Act or anywhere in the proposed Bill any indication that in your attempt to assimilate the Indian law to the English law, you propose to provide for similar relief to non-resident. It is a case of "heads I win, tails you lose". I submit that is not fair.

There are so many other points arising out of this Bill that one feels tempted to deal with them, but they have been referred to by my friends already, and I do not wish to tire your patience further by enlarging on them. But there is just one remark which I shall venture to make, and that is with reference to the suggestion made by some Members that this Bill is meant for the protection of capitalists only. That is not so. As a matter of fact the capitalist will be very little touched because he has got to pay income-tax in other countries and he will not have to pay the tax over again: for he can obtain a refund in due course. The large class of persons who will be affected will be the small Indian traders who have been carrying on business abroad in different parts of the world; the profits they are making may not be large enough to come within the income-tax law in those countries, but they would now be hard hit by this Bill if it

becomes law. The case of the Sind traders has been referred to by more than one speaker. Then, look at the Indian insurance companies, which stand to suffer very much, if you have these provisions. It is not the European community who will suffer so much, it is the Indians who will suffer most. That is what I feel. It is well known that the Indian insurance companies re-insure with British companies. It is not your intention to stop that. If that is stopped, that means that the Indian insurance companies will collapse, and that is a thing which none of us desire. Therefore, if we want to save the Indian insurance companies, we ought not to fasten this new additional burden on them. Sir, I oppose the motion.

The Honourable Sir George Schuster: Sir, I think that there is one point on which all sections of this House will be agreed, and that is that the course of the discussion on this Bill has been an unfortunate one. The Bill in a sense has received rather step-motherly treatment from the Assembly. It is unfortunate that the discussion should have had to be extended over a period of something like five months with very long intervals between the different stages of the debate. I am sure that my Honourable friends opposite will appreciate that it makes my task in replying somewhat more difficult, than it would have been if I could have wound up the debate on the same day when all the speeches had been made. But I would like to point out that this very fact of the unfortunate course through which the discussion of this Bill has gone is in a sense evidence of the Government's desire that it should not be rushed through the Assembly, but that there should be the fullest possible opportunity for debating its most important provisions. For we do recognise that this Bill is one of fundamental importance, which deserves the most careful consideration, and that it should be fully discussed and that when the time comes to vote upon it, it should, if possible, be voted upon by a representative gathering of this Assembly.

The fact that one has to reply now at the end of a debate which has extended over five months makes one's task rather a cold-blooded affair, but in a sense that is an advantage, because I think that the matters which have to be considered in connection with this Bill should be considered in a calm and cool atmosphere. It is not a matter for passion, it is a matter for careful thought, and I must ask the House to bear with me some time this morning if I go somewhat fully over the various points which have been raised. Possibly the fate of the Bill to-day may be such as to terminate its life before its purpose comes to any sort of fruition, but I am certain of one thing, and that is that if the House refuses to let this attempt go any further to-day, this is not the last which will be heard of measures of this kind. Therefore, I want to leave on record some answer to the various points which have been made, and if I weary the House, I hope they will excuse me in view of the importance of the subject.

Now, Sir, before I go into the details, I do want to remind the House of the broad issues which arise in connection with this measure. I want to ask them to keep the main objects which we had in view before them, and not to be distracted by side issues or incidental practical difficulties. Much has been made in the course of the debate by, what I am afraid I

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must call, a misrepresentation of the objects which I had in view in introducing this measure. The objects were two-fold, to remove what I maintain, and this I must specially emphasize to the House, to be an unnatural inducement to movement of capital from this country. That was our first object. The second object was to produce revenue. Now, as regards the first object it has been argued very frequently in this debate that what I had in mind was to stop an unnatural flight of capital, an exceptional flight of capital which was going on during the months when it happened that this measure came forward; and I was told that to remove this particular inducement of freedom from income-tax would have no sort of effect on the causes which were operating to encourage that particular form of flight of capital. Sir, I entirely agree with that line of argument, but it is not an answer to anything which I myself ever said. This measure was conceived in normal times; it was not conceived as a hurried measure to deal with the particular emergency. It is the result of very long discussions which, I can inform the House, have been going on practically ever since I myself took over my present office. It is a measure, as I say, conceived in normal times and designed to operate on normal forces. If any one in this House can stand up and say that the possibility of escaping income-tax especially when income-tax has attained the level which it unfortunately has attained in this country,—if any one can get up and say that the possibility of escaping that burden is not a powerful influence upon the way in which a man invests his money, then I would respectfully reply that he is turning his back on the truth and wilfully or unintentionally throwing dust in the eyes of the Assembly. If that were true, 99 per cent. of every argument which is ever used in any debate on income-tax in any parliament of the world is nonsense. We all know that the desire to escape income-tax has, in countries where the income-tax has become heavy, been a most powerful force operating on the way in which business is done and on the forms in which people invest their money. The fact that it is easy now for anybody in India to escape income-tax merely by sending his money abroad, whether he uses that income in this country or not, *must* operate as a most powerful inducement to attract money out of this country. That, Sir, is the factor, the main factor which weighed in my mind in introducing this Bill.

Then, I turn to the second main object, the question of revenue. As to this I freely admit I cannot give any figures. I deliberately refrained from giving any figures because we have no accurate evidence on what the amount involved might be and no means of obtaining accurate evidence on that subject. But we do know, we all of us know, individual instances which, even if one looked only to those individual instances, would have a powerful effect on our revenue. We all of us know those instances. I do not believe that there is a single man opposite who is familiar with business conditions who does not know of cases where, if this measure became law and the law were effectively applied, it would not produce substantial sums of additional revenue to the Indian exchequer. We did make some provisional calculations,—I refrained from quoting them because I considered them to be based on insufficient evidence—but in our own minds we thought that this measure in the first year might produce something like 50 lakhs of additional revenue. At any rate I am convinced of one thing—that if it is passed and if it is

effectively applied, it will have a substantial effect on our revenue position.

Now, in that connection I should like to refer to the remarks made by my Honourable friend the Leader of the Independent Party. His remarks I think were very much to the point. He said, Government have already come before the House and put before them what they consider to be a complete and adequate programme of taxation; why therefore should they come now with a new measure of taxation which was not included in that programme, and why,—to turn to the question which was asked by an Honourable Member of the European Group at the last stage of the debate—why should they do it just at the time when His Excellency the Governor General has given an assurance that Government contemplated no further Finance Bill or no further measure in the nature of a Finance Bill in this session? Well, Sir, I would remind the House that this measure was put before the House long before the emergency Finance Bill at the last session. The House knew perfectly well that it was before it, and that we intended to proceed with it, and we have always had it in mind as part of our proposals. But I freely admit to my Honourable friend that we have not included any estimate of revenue from this measure in our proposals, and therefore if it is passed, and if we derive revenue from it, it will be something extra to the programme which we put before the House. Now, on that subject I would say this. As things stand at present, in the present uncertainty which is really affecting all the operations of every Government in the world, no Government would refuse a measure which would give it an additional margin of safety; and I should very much like to have the possibility of an extra 50 lakhs or so as a margin of safety standing behind the programme which we put before the House. But, if it proves that that margin is not required, then most certainly it will have an effect on our general plan of taxation. And I would ask the House to look on this measure in this way—not as a new additional burden of taxation as something to be added to what is already imposed, but as a measure which is based on principles of justice, which if it were passed would put a burden upon shoulders that can well bear it, and which might put us in the position of reducing other burdens which bear much more heavily on the country's activities and the country's prosperity. It is not in our power to control the actual facts; it is not in our power to dictate whether we shall have a surplus revenue or not, but I will give the House this assurance—that if this measure were passed and if we found that we had more revenue than we required, we should certainly use that amount to reduce other and more objectionable forms of taxation.

Then, Sir, I would make one other point in this connection. My Honourable and learned friend Diwan Bahadur Rangachariar, whom we are all so glad to welcome back among us, justified his own attitude,—which I must say I listened to with the same regret which he himself expressed in disclosing it to the House,—by saying that to a Government such as we are he felt it his duty to refuse supplies at present. Well, Sir, I would ask him to consider what is the actual motion before the House. The motion before the House is for the reference of a measure, of the principle of which he himself has clearly told us he approves, to a Select Committee. Now, if the measure were referred to that Select Committee, it is not for me to say how long they will take to consider it and to render their report; but I do venture to say this—that they would take at least a

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sufficient time to make it quite impossible for us to introduce this measure in a form which would mean that the taxes would be levied in the next financial year. Much as I regret it, I think one has to face that as a necessity conclusion. We are considering something which does not really concern supplies for the next year. We are considering a principle which—I hope to develop this point further—the House really cannot reject without deliberately neglecting what are the true interests of India.

Now, Sir, as regards the main object of the Bill, I would only refer to what I myself said in introducing it. I fully recognise the force of many of the arguments that we have heard against it, but I would ask the House to consider the simple question which I put before them when I introduced this measure. Can any one possibly justify the present state of the law, the state of the law according to which if a man has money to invest in a business or to invest in securities, and if he considers how he is to invest it,—the state of the law under which now he will find that by sending it abroad either to England, the United States, Germany, France or anywhere else in the world he will be able to draw the dividends on his investment and bring them back to India the very next day and use them for his expenditure here without paying a penny of the income-tax to the cost of governing his country, whereas if he puts it in Indian securities he will have to submit to the unfortunately heavy burdens of our present tax?—Can any one possibly justify that state of affairs? I would ask the House to keep that simple point before them and not to be distracted by the difficulties and complications which will arise, I freely admit, in devising a practical measure to give effect to a change in the law. I will say no more about that at the present moment, but will turn to a consideration of some of those practical difficulties which have been so ably brought out in the course of this long debate.

Now, Sir, when I turn to the practical objections which have been raised, the first kind of objection is one of a general nature. I am told that my Bill will not achieve its objects, that it will not stop the flight of capital and that it will not be effective for raising revenue because we shall not be able to stop evasion. I have already dealt with the question of the flight of capital, and I think I need say no more on that subject. But, as a matter of interest I would like to take the House back over the course of the debate just to show them how, if I may say so, superficial and inconsistent some of the speakers have been in attacking my measure. I would like to remind my Honourable friend, Mr. Mody, of something which he said on the subject. This is what he said, as reported in the official report:

> "My Honourable friend the Finance Member this morning stated that one of the reasons why textile mills were going out of British India and were locating themselves in Indian States was that there is no income-tax to pay. I hope I am not doing him any injustice when I state the position so badly;. . . . ."

He has let the word "badly" stand, but perhaps he said "baldly". (*Mr. H. P. Mody*: "Yes, 'badly'.")

> "but if he really did say this and no more, then I am afraid he does not know the facts of the case. It is notorious that mills, and for the matter of that other industrial concerns, are going out of British India purely because labour conditions are much more favourable, labour is cheaper, *taxation is much lighter.*"

I am quoting my Honourable friend's own words. In the very same sentence in which he had given me lie he proceeds to advance the very causes on which I had based my argument . . . . .

Mr. H. P. Mody: Surely my Honourable friend knows that I was referring to municipal taxation which is very heavy in all towns of any importance.

The Honourable Sir George Schuster: I think if my Honourable friend once admits that taxation has any bearing on the course of investment of capital, he has admitted my point.

Then, there was this second point, that we should not be able to stop evasion, that we should have no means of checking the honesty of returns. That point, I think, was very ably answered by my Honourable friend, Sir Muhammad Yakub, who said that if we were to be deflected from the proper course of policy of taxation by considerations of that kind, we should never get anywhere at all. That argument applies to every form of income taxation. If you are going to refuse to pass legislation because dishonest people may evade some of your provisions, I maintain that that is an attitude which will land the Government of this country in complete impotence. Moreover I do not admit the force of the argument. It may be more difficult to check the honesty of returns of income received from investments abroad, but that it will be altogether impossible to check it I entirely deny. Nor am I prepared to take my stand on the position that the public with which we are dealing will be so dishonest that our measures will be entirely valueless. I suggest that for an Indian Assembly to take that view is hardly doing justice to the people of India.

Then I turn to more technical points. We have heard much of the special hardships that would be imposed by the operation of double income-tax; and here I would like to refer to one of the earliest speeches in the debate, the speech of my friend, the Deputy President. He is one of those who accepts the principle of the Bill, but he took the rather curious stand that although he was whole-heartedly in favour of the principle of the Bill, he would only consent to its imposition as legislation subject to the fulfilment of a condition precedent. This is what he said:

> "If I oppose this Bill even at this stage, it is not because I refuse to subscribe to the principle and a very healthy principle too, enunciated by my Honourable friend, that no encouragement should be given to an Indian citizen to invest his money abroad and thereby escape taxation—it is not because I refuse to subscribe to that principle—I whole-heartedly subscribe to the principle—but, Sir, I oppose this Bill at this stage, and I would have no hesitation in advising my Honourable friends to throw out this motion, because there are not existing those conditions precedent which alone can justify the enactment of a measure of this nature and so long as those conditions precedent are not satisfied, it will not be justice on the part of the Government to impose this additional burden on the trade, commerce and industry of this country."

Now, the conditions precedent on which my Honourable friend insisted were that, before we asked the House to pass this legislation, we should have entered into reciprocal arrangements as regards double income-tax relief with every country of the world. That, he told us, is what the British Government had done, and he told us further that we were not justified in asking the House to pass such a measure unless we had put India in the same position. The actual facts of the matter are that the United Kingdom has reciprocal arrangements only with the Dominions and

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not with a single foreign country; and if we had to wait until all foreign countries entered into reciprocal arrangements with us we should have to wait till doomsday. I maintain it is an entirely impracticable suggestion. If we are to look upon the British Government as a model in this matter —and many speakers have told me that they are quite prepared to take that course—then I say we can follow the British Government and introduce this measure before we have entered into those reciprocal arrangements which my Honourable friend claims to be made conditions precedent.

As a matter of fact the whole of this argument about double taxation is grossly exaggerated. I confess that my main objective in this measure is to get at the investment of funds in foreign securities. I shall deal with the question of people who put their money into businesses abroad later, but the main object which we have in mind is to get at the ordinary investor, the man who buys dollar bonds or South American bonds rather than Indian investments. As every man knows, who does that sort of business with his own money, there is practically not a single investment with which the ordinary man deals on which income-tax is deducted at the source; he can buy any New York investment; he can buy any South American bond, any foreign loan even sterling loan on which interest is paid in the London market and he can draw his interest on those investments without deduction of income-tax at the source at all . . . .

Sir Cowasji Jehangir: Every sterling loan?

The Honourable Sir George Schuster: All the Government of India sterling loans; any South American sterling loan; any Japanese bond, anything which the ordinary investor buys, he can buy as I say in London and draw the interest without the deduction of income-tax. He does not have to go through the trouble of claiming double income-tax relief, it is the easiest process in the world. He can even buy a great many British Government securities if he wishes to do so. He can buy the 5 per cent. War Loan or the 4 per cent. Funding Loan and one or two others without having income-tax deducted at the source. So that I maintain that the whole of this argument about double income-tax is, as I have said, grossly exaggerated. I wish in fact that it was not so easy—but it is almost fatally easy to escape income-tax for an Indian who wishes to invest his money abroad.

Now, I would like to turn to one of the most substantial points which has been made in the course of this debate about the treatment of business profits. One of the main lines of attack from those who have taken this measure seriously and really tried to deal with it in a practical way has been that, although we have claimed that we have followed the principles of the British law, we have in fact departed from those principles in one very important particular. And that whereas in England a man who has money invested in a business abroad is entitled to treat his profits on that business as income from foreign possessions and therefore not liable to tax unless remitted to this country, we, according to our proposals will make the whole of those profits liable to tax whether they are remitted to this country or not. Now, Sir, on that subject I venture to say that some of the statements which have been made in this House as to the position under the English law are not strictly accurate. It seems to have been supposed in those statements that under the second

part of Case V of Schedule D of the United Kingdom Act, a resident in the United Kingdom who has a foreign business is liable to income-tax only on so much of the profits as are remitted to the United Kingdom in the previous year. That is not correct; that is not really the position under the English law. The second part of Case V of Schedule D relates to income from other possessions arising outside the United Kingdom. Now, so far as businesses are concerned, this applies only to a business that is wholly conducted outside the United Kingdom, in which for example the man who is resident in England is only a sleeping partner. If a resident takes any part in the control or conduct of a foreign business, such business will be regarded under the English law as one carried on partly in the United Kingdom and partly outside the United Kingdom, and it will then fall under Case I of Schedule D, and the tax will be payable by a resident on the entire income whether remitted or not. I would also like to remind the House that even as regards the position of the sleeping partner, although I believe there has been no change yet made in the British law, it is not regarded in England as a just provision. I would like to quote from the Report of the Royal Commission on Income-tax of 1920 where they say the following:

"We understand that there is at present some diversity of practice in assessing the income of a British resident who is a sleeping partner in a foreign firm controlling and carrying on business entirely abroad. In our opinion no distinction should be drawn between a sleeping partner in these circumstances and a British shareholder in a foreign company, and we consider that the partner should pay the tax from the amount of his share in the firm's profit. If the law does not impose liability to this extent, we recommend that the necessary alteration should be made."

Now, Sir, in stating what is the actual position under the British law, I must say, that it is extremely difficult always to be exactly accurate, because a great deal depends on the practice adopted by Income-tax Commissioners, and as a matter of fact their practice varies considerably in actual fact from place to place. I am not, therefore, claiming that under the English law at present a sleeping partner in a foreign business is liable to income-tax on the whole of his share in the profits of a foreign business, regardless of the fact whether they are remitted to England or not. The point I am making is, that if there is any exception in England at all, it only extends to the sleeping partner . . . . .

Sir Hugh Cocke (Bombay: European): I think, Sir, the Honourable Member is rather confusing this matter, if I may say so. Income from foreign possessions is not confined to business profits; it also includes Bankers' interest abroad; it is not confined under that particular case—Case V of Schedule D—to business profits abroad, but also to Bankers' interest abroad.

The Honourable Sir George Schuster: I am quite willing to take it from my Honourable friend that that is correct, but I was dealing with the argument that our proposals as regards *business* profits were much harsher than the British proposals, I will not dispute his point as regards Bankers' interest, because that does not touch my real point. My point is that, as regards business profits, there is in England only one very limited class of case in which business profits are treated differently to ordinary income from investments, and that is the case of a sleeping partner in a foreign business which is entirely managed abroad, as regards which I am prepared to take the statement of the position of the British

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law to be that the sleeping partner in England is not liable to tax on his share of the business profits unless they are remitted to England. Now, although I have stated quite clearly what is the position as regards the English law, and although I think I have shown that a good deal that has been said in the course of this debate is incorrect, I do not wish to say that we should absolutely insist on adopting the principles of the English law. If in the Select Committee it was felt that the case of foreign business does deserve special treatment, that is most emphatically a point which could be dealt with there. I am perfectly willing, speaking for myself, to have that whole question fully discussed, and it is just one of those points which ought to be thrashed out in Select Committee. In any case, to base the opposition to the Bill on the fact that it is treating businesses much more harshly than the British law treats them, that is a point which I say is incorrect, and no one would be justified in voting against this motion to send the Bill to Select Committee on that ground.

But, Sir, before I leave that subject, I would like to ask the House to come to a proper sense of proportion as regards the interests involved here. We have heard the most eloquent pleas on behalf of the small man who is engaged in business abroad, and we have been told that it ought not to be the policy of any Government to discourage its nationals from going abroad to trade. But what are we doing in this matter? All that we are seeking to do is to put those people on a parity as regards taxation with people who do their business and trade in India. Why should this House be influenced by arguments, which as far as I can see, are based on the principle that it is much better to encourage a man to go and trade abroad, than to encourage him to trade in India. I should have thought that if there was any national interest involved in the matter it was far better for Indian business to be developed in India than that it should be developed in Kenya, China or in any other part of the globe.

Sir Cowasji Jahangir: Provided he can do some business; but if he cannot then he starves in India.

The Honourable Sir George Schuster: Well, I would like to answer my friend by saying that there are ample opportunities for business in India, and if India is suffering from anything, it is the lack of business enterprise and capital for developing possibilities that lie within her own doors.

Then, Sir, there is another special point which has been made about the case of Insurance Companies. Here again—I do not wish to take the time of the House by going into complicated details,—I think I may dispose of the point quite shortly by saying that that again is essentially a point for the Select Committee. We are quite prepared to adopt the same principle which has been adopted in the United Kingdom as regards the life insurance funds of Insurance Companies, and I am perfectly certain that the Select Committee, particularly a Select Committee composed of the Members whose names are down in the motion which I am putting before the House, are quite capable of devising machinery which will protect all legitimate interests of Insurance Companies.

Then another point has been raised about agricultural incomes. We are told that agricultural income in India is exempt from income-tax, and asked, will the same apply, if this Bill is passed, to

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receipts from agricultural income earned in Indian States? There again my answer is that that is a point which can be dealt with in Select Committee. There is not the slightest difficulty in introducing some special provision as regards agricultural income if the Select Committee thinks on full consideration that that is just. I think myself that there is a great deal to be said on the other side, but it certainly would not vitiate the principle of this Bill or create an insurmountable obstacle to Government if the Select Committee took the view that agricultural income should, wherever it is earned, be exempted from tax.

Then, another point that has been made is the question of the general reactions of this measure on the Indian States. There I was rather interested at the sort of point which was developed in the course of the last speech that we heard. The speaker seemed to think that whereas a European who resides for his business life in India should be subjected to income-tax on the whole of his income wherever it was earned, a subject of an Indian State, a Marwari for example, who settles down for his business life in Calcutta should not be treated in the same way. I do not know on what ground my Honourable friend can support that contention.

Mr. C. C. Biswas: On a point of personal explanation. That was not the point I made. What I said was this, that by reason of the assurance which the Honourable the Finance Member gave in Simla, the aspect of the Bill had changed materially and a new class of persons who were so far safe were going to be hit. I was not suggesting for one moment that I approved of the taxation of the European community or of the Marwari community.

The Honourable Sir George Schuster: I am very glad to learn that my Honourable friend was consistent. I was afraid he was not. It does not affect the main course of my argument at all, and I shall deal with his particular point later. I was dealing with the question of the possible reactions on Indian States, and particularly on subjects of Indian States who reside for business purposes in British India. There again I freely admit that many complicated issues arise, and I would give the same answer that that is an aspect of the matter which should be studied in Select Committee. I think the Select Committee will have to deal with the whole question of residence, what constitutes residence for income-tax purposes, how far you should go in taxing a man who spends only part of his time in India, at what stage you should say he must be treated as a resident who owes economic allegiance to British India. That is a very complicated question, and I feel it is one which, as I have already said in the course of this debate, would have to be dealt with by the Select Committee.

Then, another point which was raised by my Honourable friend Diwan Bahadur Harbilas Sarda—he in the very early stages of this debate said that he was perfectly willing to support the principle of this Bill and to vote for my motion provided that we were prepared to subject to Indian income-tax salaries and pensions of Indian officials paid abroad. I would put it to my Honourable friend that that is an irrelevant point. That has nothing whatever to do with the principle of this Bill, and I would ask him, not, on the ground that he cannot get everything that he wants by this Bill, which is dealing with quite a different subject—not on that ground to reject the Bill which otherwise is I maintain necessary in the interests of India.

[Sir George Schuster.]

The last point which I wish to deal with specially is the question of the principle of discrimination. I think I explained very fully to the House that when we came to consider this measure, we realised at once that we were up against a very difficult point here, as to whether there should be any discrimination between the man who is domiciled and resident in India and the man who is only resident in India, and we felt that the only way, the best way in which we could put the issue before the House,—always with the idea that we should leave ourselves in the hands of the House in this matter—that the best way in which we could put the issue before the House would be to incorporate as nearly as possible in our original Bill the provisions of the English law on the subject. I was perfectly frank about the matter, and in introducing the Bill I acknowledged that there was a class of people doing business in India but not domiciled in India, to which there is really no parallel in England and that therefore special considerations in India did arise. And I think the House may congratulate itself on the frankness with which this very difficult question has been treated in debate, and I should like, if I may, to congratulate my Honourable friends on the right on the frank and public spirited way in which they have themselves treated this question in which their own interests are so much involved. It has often been said in the course of the debate that I, by making the statement which I did, have altered the Bill. I have done nothing of the kind. I have merely stated what the Government's attitude would be if the Select Committee proposed to alter the Bill in that way. I think again that it is not an easy point. When you come to consider it in a practical way, there are very many extremely hard cases which will arise if the so-called principle of discrimination is entirely done away with, and I think the Select Committee, if it comes to them, would have to go most carefully into the whole question. I have only said that we would place ourselves entirely in the hands of the Select Committee in that matter.

I have only one more special point to deal with before I finish and that is this. It was argued by my Honourable friend Sir Cowasji Jehangir—and the point has again been made this morning—that by admitting the possibility of doing away with the so-called principle of discrimination in the Bill, we have really opened the door to a complete alteration of the Bill, and that if the Bill came out from the Select Committee with that significant change, there would be before the House a measure entirely different to that which was originally introduced and which was circulated for opinion, and, as my Honourable friend Mr. Biswas has just pointed out, that there would be large classes of people in India, particularly subjects of Indian States, who are resident in British India for the purposes of their business, who, if that principle of discrimination is taken away, would be liable, just as domiciled subjects of British India would be, to full income-tax—that they have not had before them the provisions of a Bill of that kind, and therefore if the House were asked to consider it now it would be unfair to large classes of people in this country. I think there is a great deal in that point, but my answer to that is very simple. It is perfectly open to the Select Committee to say that the Bill has been so altered that it requires re-publication—there is a special provision to that effect under the Standing Orders. It is also perfectly open to the Select Committee to recommend that the Bill has been so altered that it should be re-circulated for opinion, and if I might express a personal opinion, I should myself say that that would be the right course for them to take. It will involve lengthening the consideration of this measure, but that is a thing

which I think should be willingly faced. The measure is of such importance that it ought not to be killed outright now, and it ought to receive the fullest possible consideration from the whole country. Therefore I would ask all those who feel any hesitation about voting for this motion,—which I would again remind them is not a motion for passing the Bill but merely for referring to Select Committee and which merely involves the approval of a general principle which most of those who have opposed the Bill and the present motion have told me they approve of,—I would ask all those who are in that position to reconsider their attitude and to look at it in this way and say to themselves, "Here is a measure which we all of us feel on broad grounds is right. There are practical difficulties in the way. We do not like it exactly as it stands. We object particularly to the principle of discrimination which in the Bill as originally introduced is included. But all the practical points on which we feel difficulty are points which can be dealt with in Select Committee, and if the Select Committee alters the Bill in such a way as to make a substantial change in the interests of various people who would be affected, then that Bill can again be circulated for opinion. We can in that way ensure, on the one hand, that no sort of injustice can possibly be done to any class of people in the country, and, on the other hand, that at the same time we shall not involve ourselves in what may be described as the odium of having rejected this principle which is really necessary in the national interests of India".

Sir, I would come back at the end to my main point—Is there a single man in any part of this House who can get up and with his hand on his heart, and speaking with a full sense of truth and honesty say he can justify the present state of the law, according to which a man can send his money abroad and pay no income-tax, whereas if it is invested here he is subjected to his full burden as a citizen of India? Is there a single man in the House who can really get up and justify that position? If the answer is "No"—and I feel convinced that in his secret heart everybody must say "No"—then I say the House will be absolutely wrong if it rejects this motion. I have put the position very clearly and frankly. I have put it to the House that, in passing this motion, they will not be committing themselves to any dangerous step, whereas in rejecting this motion, I would put it to them that they will be appearing before India in a light in which none of them can desire to appear.

Sir, we have been asked—and the point has been made frequently in this debate—"Why do you, the Government, go on with this measure? Your own people do not want it. Your officials do not want it. You are getting into serious embarrassments with your friends, the Europeons. Your Provincial Governments have told you that they do not like it, and yet you go on with it. Why do you do it?" Sir, the answer is a very simple one, although my Honourable friends opposite may find it difficult to believe. We are going on with it because we feel it to be right. We cannot, I cannot, reconcile it with my conscience not to take the opportunity to alter the present state of the law which I am convinced is doing great harm to India. If that principle is not to be accepted, then this House must take the responsibility. Speaking for myself, I should be saved a great deal of labour in the Select Committee and a great deal of my own money, but, Sir,—and I hope the House will believe that I am honest, when I say so,—I shall be the loser of something which, while I am serving India, I value more, and that is my pride in being a Member of this House and my respect for my Honourable friends opposite.

Mr. President: The question is:

"That the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes, be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Sir Hari Singh Gour, Sir Cowasji Jehangir, Mr. S. C. Mitra, Mr. Muhammad Anwar-ul-Azim, Sir Hugh Cocke, Mr. N. N. Anklesaria, Sir Abdullah Suhrawardy, Raja Bahadur G. Krishnamachariar and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The Assembly divided:

AYES—41.

Acott, Mr. A. S. V.
Allah Baksh Khan Tiwana, Khan Bahadur Malik.
Allison, Mr. F. W.
Azizuddin Ahmad Bilgrami, Qazi.
Bajpai, Mr. R. S.
Banerji, Mr. Rajnarayan.
Bhore, The Honourable Sir Joseph.
Brown, Mr. R. R.
Clow, Mr. A. G.
Cosgrave, Mr. W. A.
Crerar, The Honourable Sir James.
Dalal, Dr. R. D.
DeSouza, Dr. F. X.
Dutt, Mr. Amar Nath.
French, Mr. J. C.
Gidney, Lieut.-Colonel Sir Henry.
Graham, Sir Lancelot.
Gwynne, Mr. C. W.
Howell, Sir Evelyn.
Jawahar Singh, Sardar Bahadur Sardar.
Joshi, Mr. N. M.
Macqueen, Mr. P.
Muazzam Sahib Bahadur, Mr. Muhammad.
Mukherjee, Rai Bahadur S. C.
Parsons, Sir Alan.
Rafiuddin Ahmad, Khan Bahadur Maulvi.
Raghubir Singh, Kunwar.
Rainy, The Honourable Sir George.
Rajah, Rao Bahadur M. C.
Rama Rao, Diwan Bahadur U.
Rastogi, Mr. Badri Lal.
Ryan, Mr. T.
Sahi, Mr. Ram Prashad Narayan.
Santos, Mr. J.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Seaman, Mr. C. K.
Sher Muhammad Khan Gakhar, Captain.
Wajihuddin, Khan Bahadur Haji.
Yamin Khan, Mr. Muhammad.
Young, Mr. G. M.

NOES—47.

Abdur Rahim, Sir.
Azhar Ali, Mr. Muhammad.
Bhuput Sing, Mr.
Biswas, Mr. C. C.
Chaudi Mal Gola, Bhagat.
Chetty, Mr. R. K. Shanmukham.
Chinoy, Mr. Rahimtoola M.
Cocke, Sir Hugh.
Das, Mr. A.
Dumasia, Mr. N. M.
Fox, Mr. H. B.
Gour, Sir Hari Singh.
Gunjal, Mr. N. R.
Hari Raj Swarup, Lala.
Heathcote, Mr. L. V.
Ismail Ali Khan, Kunwar Hajee.
Isra, Chaudhri.
Jadhav, Mr. B. V.
Jehangir, Sir Cowasji.
Krishnamachariar, Raja Bahadur G.
Lahiri Chaudhury, Mr. D. K.
Liladhar Chaudhury, Seth.
Maswood Ahmad, Mr. M.
Misra, Mr. B. N.
Mitra, Mr. S. C.
Mody, Mr. H. P.
Moore, Mr. Arthur.
Morgan, Mr. G.
Murtuza Saheb Bahadur, Maulvi Sayyid.
Pandit, Rao Bahadur S. R.
Puri, Mr. B. R.
Puri, Mr. Goswami M. R.
Rajah, Raja Sir Vasudeva.
Ranga Iyer, Mr. C. S.
Rangachariar, Diwan Bahadur T.
Sarda, Diwan Bahadur Harbilas.
Scott, Mr. J. Ramsay.
Sen, Pandit Satyendra Nath.
Sitaramaraju, Mr. B.
Studd, Mr. E.
Sukhraj Rai, Rai Bahadur.
Sykes, Mr. E. F.
Tait, Mr. John.
Thampan, Mr. K. P.
Wilayatullah, Khan Bahadur H. M.
Wood, Sir Edgar.
Ziauddin Ahmad, Dr.

The motion was negatived.

The Assembly then adjourned for Lunch till Twenty Five Minutes to Three of the Clock.

The Assembly re-assembled after Lunch at Twenty Five Minutes to Three of the Clock, Mr. President in the Chair.

THE WIRE AND WIRE NAIL INDUSTRY (PROTECTION) BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Sir George Rainy (Member for Commerce and Railways): Sir, I lay on the table the report of the Select Committee on a Bill to provide for the fostering and development of the wire and wire nails industry in British India.

THE BAMBOO PAPER INDUSTRY (PROTECTION) BILL.

EXTENSION OF TIME FOR PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Sir George Rainy (Member for Commerce and Railways): Sir, I move:

"That the time appointed for the presentation of the report of the Select Committee on the Bill further to amend the law relating to the fostering and development of the bamboo paper industry in British India be extended to the 17th February."

The Committee has found it impossible to complete its report in time to present it to the House. Therefore, I move this motion.

The motion was adopted.

THE SUGAR INDUSTRY (PROTECTION) BILL.

EXTENSION OF TIME FOR PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Sir George Rainy (Member for Commerce and Railways): Sir, I move:

"That the time appointed for the presentation of the report of the Select Committee on the Bill to provide for the fostering and development of the sugar industry in British India be extended to the 22nd February."

The motion was adopted.

THE INDIAN PARTNERSHIP BILL.

Sir Lancelot Graham (Secretary, Legislative Department): Sir, I move:

"That the Bill to define and amend the law relating to partnership, as reported by the Select Committee, be taken into consideration."

The report of the Select Committee, Sir, was laid by me on the table of this House on the 26th January, and I think that Members have had sufficient time to examine it, and we are extremely gratified to find so very few notices of amendment. Before I go further, I should like to express the gratitude of Government to those members of the Committee who made it possible at a considerable sacrifice of their private time to attend in Delhi for a full fortnight before the deliberations of this House began and to devote a very large portion of their time to the examination of this Bill and the reports upon it. It is not usual to go into details as to what happened in the Select Committee, but I wish particularly to acknowledge the services of my friend, Diwan Bahadur Harbilas Sarda as Chairman. He

[Sir Lancelot Graham.]

fulfilled that role at a very short notice owing to the lamentable absence of my other friend Diwan Bahadur Rangachariar. The changes made in the Bill by the Select Committee are not, as one would have expected, changes of substance, but very great care was taken by the members of the Select Committee to understand all the points which arose out of the opinions which have been received by Government. I think those changes are sufficiently noted upon in a somewhat full report of the Select Committee. The measure of our work is not necessarily to be estimated by the amount of what appears in the report of the Select Committee, because in many cases, after a great deal of argument, we decided to leave the provisions of the Bill as they stood at introduction. For example, we spent a great deal of time on the definition of "partnership" and we came to what I consider a very satisfactory conclusion, but only after a great deal of argument, that the definition as contained in the Bill as introduced could not be bettered. Then, Sir, we gave very great attention to questions arising out of clause 19 of the Bill. It is a very difficult question relating to implied authority, and after giving special attention to the opinion received from Calcutta, we decided materially to alter the form of that clause so as to provide for the extension of the implied authority of a partner. For that purpose we have inserted the words, "In the absence of any usage or custom of trade to the contrary" and thereby I think we have supplied a measure of elasticity which should be found very valuable indeed. The next provision on which we spent considerable time was a provision dealing with the position of minors and, I think, what we have done is not of a controversial nature at all. It was solely intended to be by way of elucidation. Again, we spent a great deal of time on it. Although, perhaps, what actually appears from the Bill may not appear to be a very great change, the members of the Committee are convinced that these changes entirely clear up the position as regards the minors when admitted to the benefits of the partnership. On other alterations, Sir, I do not propose to speak in detail. It is a matter of some regret that this Committee which laboured so amicably for so many days did not produce an entirely unanimous report as the Chairman has appended a minute of dissent. I am happy, on the other hand, to say that that dissenting minute does not raise questions of what I may call vital importance. It deals with matters of degree. I do not propose therefore at this stage to anticipate what I may say later when the Honourable Member moves his amendments. I would conclude, then, by saying that, I think, we may say that this is a non-controversial measure and that, if passed by this House, it will effect a very great improvement in a very important branch of the law.

Sir, I move.

Diwan Bahadur Harbilas-Sarda (Ajmer-Merwara: General): Sir, I rise to make some observations on this Bill and show how I am opposed to it. A separate Act dealing with partnership is now for the first time being framed. Up till now provisions in various Acts, principally the Indian Contracts Act, contained the law governing the partnerships. This Bill is based principally on the English Partnership Act of 1890 and several clauses of it have been bodily taken from that Act. The only important new feature of this Bill and which really has nothing to do with the law governing partnership is contained in Chapter VII which deals with provisions regarding registration of firms. As I shall show later on, the partnership law is complete without any provisions regarding registration of firms being made a

part of it. The real and pure law of partnership embodied in the Act is unobjectionable and is nothing but the existing law. No case however has been made out for the enactment of the new law as embodied in Chapter VII. The English law provides for compulsory registration of partnership, but as I have said in my Note of Dissent:

> "trade and commerce in India have not always followed the same line of development as trade in England has done, and as conditions of life differ materially in certain respects in the two countries, I think that the means employed in England to achieve an object are not always suitable to be employed in India to achieve the same end. In view of this difference, I am apt to think that the provisions contained in Chapter VII of the Bill should be very cautiously and very gradually applied to India. The framers of the Bill, in enacting sub-clause (3) of clause 1 have recognised the difference between the business conditions in India and those in England by providing that clause 68 of the Bill shall come into operation 12 months after the rest of the Bill comes into operation, in other words, after people in India have to some extent become familiar with the principles underlying the Bill.
>
> Clause 68 is not only the most vital clause in Chapter VII—the most important Chapter in the Bill—but it introduces a provision on which serious difference of opinion exists."

This Bill has a little history of its own and is really the outcome of the demand made by the mercantile community, the foreign merchants in India, trading chiefly in Bombay, Madras and Calcutta. The Honourable the Law Member has been advocating the enactment of a measure complying with their request for a long time. In 1918, giving evidence before the Industrial Commission, he supported their claim by advocating that a measure like this should be enacted. But now, after a long period of incubation, this measure has been brought into being. It has been carefully nursed by my Honourable friend the Law Member during 1930 and 1931 and is now presented to you to be fully endowed to govern and control all partnership business in this country. He knew that it was difficult to persuade the country to adopt his child if its real character was clearly and fully unfolded to the view. He has therefore decided, past master of the art of advocacy that he is and skilful in putting facts to suit the objective in view, not to provide in a plain straightforward manner what he wants to be enacted and which has been demanded by the European mercantile community in India, but to make such provisions in the Bill as to compel achievement of the same object. Instead of providing in the Bill that every partnership shall be compulsorily registered, while he tries to show that firms are at liberty to register or not, and they can start business without registration, he makes provision in the Bill which would bring all partnership business to a stop if the firms are not registered. All business ultimately rests on the protection of judicial courts for its continuance. No business is possible if courts refuse to give relief. This Bill refuses relief if a firm does not do what my Honourable friend wants it to do. Is this not compulsion? What is the difference between dragging a man along a particular road or holding a pistol to his head and warning him that he would be shot if he took any other road than the one pointed out to him to take. The report of the incubating committee, the special committee, says:

> "It has been pointed out repeatedly with much force that to require small or ephemeral joint ventures to be registered would produce little public benefit and would act as a clog on petty enterprise; and such ventures are so numerous that any small benefit to be derived from registration would be counterbalanced by the clerical labour involved. Hence, there have been proposals, like that of the Civil Justice Committee, that firms with less than a certain capital should be exempt, or that the disability to sue arising from non-registration should apply only to suits above a certain value; but none of these proposals have survived examination."

[Diwan Bahadur Harbilas Sarda.]

We do not know what that examination is. The report goes on:

"The capital of a firm may be an elusive quantity and it is frequently a fluctuating quantity; and to use the valuation of a suit in order to determine whether the suit lies or not is likely to lead to improper devices and to perjury."

Nobody has ever advocated that and nobody ever said that the valuation of a suit should be taken as such:

"The Bill seeks to overcome this class of difficulty by making registration optional, and creating inducements to register which will only bear upon firms in a substantial and fairly permanent way of business."

Creating inducements is only a paraphrase of holding threats, holding over the head of firms a Damocles sword. The honest course would be to do what has been done in England as mentioned in para. 12 of the report. Para. 12 says:

"In addition to the *pure law* of partnership the Bill contains an important new Chapter on the registration of firms—Chapter VII. The history of the proposals for some measure of this kind in India goes as far back as 1867, when the Bombay Chamber of Commerce first made the suggestion that legislation should be undertaken for the compulsory registration of firms. The step was then deemed to be impracticable, but ever since at frequent intervals various mercantile bodies, sometimes supported by Local Governments, have pressed for some such legislation in the interests of the trading public. The movement was strengthened by the passing of the Registration of Business Names Act, 1916 (5 and 6 George V. c. 58), which furnished a useful precedent. This Act *inter alia* makes the registration of all firms compulsory, attaches a penalty to failure to register, and renders persons who are in default incapable of bringing a suit to enforce their claims as partners, whether against their co-partners or against third parties."

This, as I have said, fully proves my point that Chapter VII is not a necessary or an essential part of the law of partnership, and the framers of the Bill admit in this paragraph that this chapter is not a necessary part of the law of partnership. I will here say a word or two as to why the mercantile bodies have asked for registration of firms and who these mercantile bodies are. The mercantile bodies mean European mercantile bodies who deal with Indian firms. Now, the difficulties experienced by foreign firms were chiefly experienced in dealing with Hindu joint family firms. Ostensibly this Bill does not apply to those firms and absolutely no material has been placed before the Select Committee on which I had the honour to serve, nor before the House, to show what real, practical and serious difficulties arise by partnership firms, as distinct from Hindu joint family firms, remaining unregistered. Allegations have been made and we are asked to accept them on the experience of the Honourable the Law Member and other gentlemen. The report says:

"The details of the scheme are briefly as follows. The English precedent in so far as it makes registration compulsory and imposes a penalty for non-registration has not been followed as it is considered that this step would be too drastic for a beginning in India and would introduce all the difficulties connected with small and ephemeral undertakings. Instead it is proposed that registration should be entirely within the discretion of the firm or partner concerned; but, following the English precedent any firm which is not registered will be unable to enforce its claims against third parties in the civil Courts:"

Of the three elements going to make that provision, only one has been taken which is the most vital and which makes the other two unnecessary so far as the enforcement of that thing goes:

"and any partner who is not registered will be unable to enforce his claims either against third parties or against his fellow partners. One exception to this disability is made. Any unregistered partner in any firm—registered or unregistered—may sue for dissolution of the firm. This exception is made on the principle that registration is designed primarily to protect third parties and the absence of registration need not prevent the disappearance of an unregistered or imperfectly registered firm. Under this scheme a small firm or firm created for a single venture not meeting with difficulty in getting payments need never register; and even a firm with a large business need not register until it is faced with litigation. Registration may then be effected at any time before the suit is instituted; the rigths of third parties to sue the firm or any partner are left intact."

Now, the ostensible reason for foisting on the partnership law the provi-
3 P.M. sions regarding compulsory registration of partnerships is given as the protection of third parties. If this is so, why should the Bill bar the institution of all suits between partners themselves? And then how does it protect the third parties? An unregistered firm is allowed unrestricted liberty to deal with third parties. It is not enacted that no unregistered firm shall deal with third parties; it only says that no suit shall be filed by an unregistered firm. How does that protect the third party? It only imposes a disability on unregistered firms. An unregistered firm may deal with third parties, and when it has to file a suit against them it gets itself registered. In what does the protection then lie? In what respect and in what way are third parties protected from injury? Not a word has been said as to the injury, which third parties are saved from, by clause 68. If the object of registration is purely to provide for disclosure of all the partners in a firm and nothing more, then that purpose is fully served already by rules 1 and 2 of Order XXX of the Civil Procedure Code. Rule 1 of Order XXX says:

"Any two or more persons claiming or being liable as partners and carrying on business in British India may sue or be sued in the name of the firm of which such persons were partners at the time of the accruing of the cause of action, and any party to a suit may in such case apply to the court for a statement of the names and addresses of the persons who were, at the time of the accruing of the cause of action, partners in such firm, to be furnished and verified in such manner as the Court may direct."

Rule 2 says:

"2. (1) Where a suit is instituted by partners in the name of their firm, the plaintiffs or their pleader shall, on demand in writing by or on behalf of any defendant, forthwith declare in writing the names and places of residence of all the persons constituting the firm on whose behalf the suit is instituted.

(2) Where the plaintiffs or their pleader fail to comply with any demand made under sub-rule (1), all proceedings in the same suit may, upon an application for that purpose, be stayed upon such terms as the Court may direct."

These Rules are quite sufficient to secure disclosure of the names and addresses of the partners of a firm. These rules also show why registration is not an integral or a necessary part of a partnership law which is now embodied in this Bill. The whole object of the Bill, Sir, is not to protect any one, neither the partners themselves against one another,—and such a claim has not been advanced even by the framers of the Bill,—nor third parties, but to comply with the demand of the mercantile bodies named above. Big Indian firms are mostly Hindu joint family firms and in the nature of things and also for other reasons difficulties were sometimes experienced in following all the members of those firms when recovery of money from them was concerned, and the European firms through their Chambers demanded registration. But the fact that Hindu joint family business is governed by Hindu law raised an insuperable difficulty in giving the relief demanded by these merchants. These difficulties were voiced before the Industrial Commission and the Civil Justice Committee and elsewhere. A tentative effort to tackle the matter has therefore been

[Diwan Bahadur Harbilas Sarda.]

made by the Honourable the Law Member by initiating this measure. The report of the Special Committee in paragraphs 13 and 14 says:

"All the proposals made at various times were considered by the Government of India, but owing either to lack of unanimity among the proposers or to difficulties in the proposals themselves, no conclusions were come to which could form the basis of a Bill which held any promise of a successful passage through the Indian legislature. These difficulties related to -

(1) Hindu undivided families,

(2) short-lived partnerships, and

(3) firms in a small way of business.

and a short discussion of these will disclose the reasons why nothing so far has been done and will help to explain the present proposals.

A Hindu undivided family may carry on a family business exclusively for its own benefit, or it may carry on a business with one or more outsiders as partners with the family. To require that each member of such a family should have his name registered in a register of firms has all along been deemed to be an impracticable step. Every male child born would have to be registered and every death or partition that occurred would involve changes in the register. It has been recognised that such a proposal would be resented by the Hindu community and probably would not be effective. However, this difficulty may be avoided, as was pointed out by the present Law Member in his evidence before the Industrial Commission in 1918."—(*I do not know that it can in any way be avoided*)—"A Hindu undivided family carrying on a family business may have many of the characteristics of a firm, but it is not a firm. Partnership arises only from contract and is not created by status or obtained by birth. The law of partnership has no application to these families, whose internal relations and liabilities for the acts of members are governed entirely by the Hindu Law. Even in the case where a trading family enters into partnership with outsiders no special provision for the registration of its members is needed. As partnership arises only from contract, only that member who makes the contract of partnership with outsiders can be considered to be a partner. He may or he may not represent the whole family, and only his interest or the whole joint family property may be liable for the debts of the firm;"—(*and here comes the smoke screen*)—"but these are questions of fact mainly, or, where they are mixed questions of fact and law, the law is not that of partnership but is the Hindu law. If the partner member does represent the family and if his share of the profits of the firm goes into the family stock, then the whole of the joint family property will be liable for the debts of the firm. But if the partner member is trading on his own responsibility and keeps the profits to himself then the creditors of the firm cannot realise their claims against the firm from the joint family property, beyond the extent of the interest of the partner member. It will be seen that the principles of law involved are principles of the Hindu law, and that they are the same principles which are applied to all dealings by the manager or representative of the joint family."

This is all done by representing a wrong view of the Hindu joint family system and without openly subjecting the joint Hindu family to the provisions of this Bill, that is, the provisions of Chapter VII. But in order to accomplish the same thing in an indirect manner the Honourable the framer of the Bill is trying to carry out the idea of which . . . .

Diwan Bahadur T. Rangachariar: You say that Chapter VII applies to a joint Hindu family?

Diwan Bahadur Harbilas Sarda: It does not ostensibly; but in effect it will apply because as he says if the partner member gives his profits or shares the losses with the joint family, every member of the joint family will be liable. That just shows that is the law, but the present law does not require registration. In order to bring all those into the law plainly now without giving them, as I will show later, the safeguards which they can get if there were registration of all the members, is not right. In 99 cases out of 100, a member of the joint Hindu family acts as *karta* of the family when he forms partnership with an outsider, and according to the

Honourable the Law Member in all essentials of legal requirements, the whole family of all the co-parceners become liable for partnership business and therefore in all essentials are given the status of partners in that partnership firm. If the law is to be honestly applied in a straightforward manner all members of the joint Hindu family must from the very start be held as members of the partnership firm and as such must be registered as such. But the Honourable the Law Member, seeing what a storm it will raise in the country and finding that no legislature would pass such a Bill if he did not keep away from them the real objective of the Bill, has, in an indirect manner embroiled a Hindu joint family and made them subject to this Act without giving them or their co-parcener opportunities to safeguard themselves which they are rightfully entitled to have. You will see that the Honourable the framer of the Bill has, thus by ignoring the characteristics and rights of co-parceners under the Hindu law, set at naught the Hindu law and has subjected members of the joint Hindu family to the liabilities imposed by Chapter VII without corresponding safeguards, by simply forgetting their existence and taking a member of a family who joins partnership with an outsider as the whole family. This will make it clear that the object of the Bill is to satisfy by some means or other the demand of the foreign trades.

Mr. S. C. Mitra: Why of the foreign trader?

Diwan Bahadur Harbilas Sarda: I will show you how.

Diwan Bahadur T. Rangachariar: They wanted registration of Hindu joint families.

Diwan Bahadur Harbilas Sarda: Yes, they do, and that has been accomplished now without ostensibly doing so. This is from the Madras Chamber of Commerce:

"We have carefully considered the reasons for excluding joint Hindu family firms from the operation of the Bill and although there is a great deal to be said in favour of the view that the legal incidents relating to such firms should be governed by the Hindu law and such provisions of the partnership law as may not be inconsistent therewith, there is, in our opinion, no reason why joint Hindu family firms should not be registered in the same way as other partnership firms under the provisions of Chapter VII of the Bill. . . . .

Judgments of the Privy Council, *e.g.*, '30 Indians Appeals' lend support to the view that when there is partition in a joint Hindu family the members of which carry on an ancestral business, the mere severance in status would also effect a severance of the joint status of the family with regard to the business and that the business would thereafter be a contractual partnership business.

We are therefore of opinion that the present opportunity may be taken to obviate such frauds by making it compulsory that joint Hindu family firms should equally with partnership firms be subjected to the operation of the registration provisions of Chapter VII of the present Bill."

This is what they demand and it has been accomplished not by registering every member but by registering the *karta* of the whole family as a partner:

"In the case of joint Hindu family firms, the particulars of registration would be somewhat as follows:

(1) Names of all the members constituting the joint Hindu family and their age.

(2) The names of all the members of the family actively participating in the business.

(3) the birth of a new member or the death of any existing member.

(4) any partition effected and the particulars of such partition."

[Diwan Bahadur Harbilas Sarda.]

As I have shown, Sir, and as rules 1 and 2 of Order XXX of the C. P. C. lay down, the enactment of this Bill as far as the rest of the Bill—with the exception of Chapter VII—is concerned, is quite unnecessary, if the disclosure of the names of the parties to a partnership firm is the real objective, Honourable Members will have seen that the real object of the Bill is not to protect the third parties but to satisfy the demand of a certain section of the mercantile community. But, Sir, at what cost is this done? How business people will be handicapped, how terribly small traders and shopkeepers in villages and in mofussil towns will be handicapped can better be imagined than described. What an amount of discontent would spread in the country when business is already suffering so much.

I shall now show to the House that the opinion of the Indian business community is almost unanimously against it. It is true that many of the Judges and practising lawyers, whose work will be facilitated by the enactment of the whole of this Bill, support it. The European Chambers of Commerce also support it, because it is at their suggestion that this measure has been initiated. This Bill has been circulated to 12 bodies of Indian traders and business men. I have carefully counted the opinions and examined the opinions circulated, and I find that so far as the Indian business men and traders are concerned, only 12 bodies have been consulted. Ten of these twelve oppose Chapter VII of the Bill . . . .

Mr. S. C. Mitra: Not the whole Bill.

Diwan Bahadur Harbilas Sarda: It is Chapter VII which is the whole Bill; the rest is nothing but putting together in the form of a separate enactment all the provisions that at present govern the Partnership law; it is only Chapter VII which is a new feature which is objectionable, and which is practically the whole Bill we are discussing. Now, in counting these 12, I leave out of account of course the Country League of Simla and the Bangalore Traders' Association, which I believe are dominated either by European traders or anti-Indian influences. Out of the 12, ten, as I have said, oppose the measure. Even the remaining two regard the measure as a harsh one, and one suggests that the measure should be amended. Now the 12 bodies are:

1. The Delhi Piece-goods Association.
2. The Cloth Merchants' Association, Nagpur.
3. The Indian Merchants' Chamber, Bombay.
4. Bombay Piece-goods Association.
5. Karachi Indian Merchants' Chamber.
6. The Seed Traders' Association, Bombay.
7. Bombay Shroff Association.
8. Grain Merchants' Association, Bombay.
9. The Marwari Chamber of Commerce, Bombay.
10. The Sholapur Merchants' Chamber.
11. Indian Chamber of Commerce, Coimbatore.
12. Burma Indian Chamber.

Apart from these, Sir, there are also others who have expressed their disagreement with the enactment of Chapter VII. The Secretary, Indian Merchants' Chamber, Bombay, says:

"In the opinion of the Indian Merchants' Chamber, having regard to the conditions prevailing in India and to the fact that capitalists are shy to invest their monies in adventures, such a provision would be detrimental to the interests of the commercial community as a whole, and would prevent capitalists from coming forward to help small firms in their adventures. It will also be seen that a firm constituted for a single adventure is also bound to be registered; otherwise it is liable to similar consequences resulting from non-registration. . . . . ."

The Bombay Piece-goods Native Merchants' Association say this:

"The most objectionable innovation that my committee find in the Bill is the chapter relating to the registration of firms. My committee are of opinion that it is not only unnecessary, but inadvisable to make any attempt directly or indirectly to secure the registration of firms for reasons which are set forth below.

It is remarkable that the desire for making registration of firms compulsory has emanated only from European Chambers of Commerce in India, and it is at the same time singular that as far as my committee are aware no recognised Chamber of Commerce of Indian Merchants, or Individual, or Trade Association has ever approached Government with a similar request. It seems the European Commercial Community in India have taken up the matter to require registration of firms with a view to introduce *in toto* the provisions of similar legislation in England, but it is obvious that the conditions prevailing in India and England are so dissimilar that any attempt in this direction is bound to lead to great hardship to the Mercantile Community. The chief difficulties that will have to be faced are referred to by the Special Committee in their report in paragraphs 12 to 14 of their report. The reasons which the committee have, however, found to ignore these difficulties carry no conviction. It is true that in so far as the Joint Hindu Family system is concerned, the provision of registration will not be applicable to those who take a share in the Joint Family Firm by birth, but still in regard to those partnerships in which a Joint Family is a partner with outsiders, there is always likely to be difficulty in deciding as to who should be registered as a partner in his representative capacity. Besides, the questions in regard to the representative character or otherwise of a person are likely to arise so often that the purpose of Registration is bound to be nullified at any rate so far as the Hindu Joint Family firm is concerned. My committee are therefore of opinion that though these matters are pertaining to the Hindu Law, they are so much inextricably connected with the Law of Partnership that it is not possible to ignore them.

My committee are also of opinion that the hardships for small traders and members of short-lived partnerships are still greater. In regard to the latter, the number of such ephemeral partnerships and ventures is so large that if the Chapter on Registration is made applicable to them, a very large number of such partnerships will be very adversely affected. In most cases, these ventures are embarked upon at the spur of the moment, and if the Law were to insist upon their registration, the purpose for which they are started are likely to be frustrated. In big commercial towns like Bombay and Calcutta, it is not unusual for a number of merchants to join in partnership for a single venture in trade instantaneously. The amount of business that is done through these agencies is quite considerable so that the requirements of Registration of these partnerships is likely to make this important and legitimate trade activity almost impossible. The consequences arising out of these are so serious that in the opinion of my committee the Commercial Community of India is bound to oppose them.

My committee feel that Government are surely not unaware of the hardships to which the small trading firms are likely to be put. Most of them do business in a small way and are quite ignorant of the complicated machinery of registration. The result will be that in spite of very elaborate organisation, many of the firms will remain unregistered to the great detriment of the partners who will run the risk of unknowingly loosing their money.

In this connection, my committee have noticed that though the Special Committee on the Bill were aware of all these difficulties, they have tried to pass over them by imagining that Registration is only optional. As a matter of fact, the penalties imposed are so heavy that it is straining the langauge too far to say that the provisions are merely optional."

[Diwan Bahadur Harbilas Sarda.]

The Karachi Indian Merchants' Association say:

"Registration is rendered compulsory by section 68. These two drastic provisions and the provisions of Chapter VII ought to be modified so as to reduce disabilities on unregistered firms."

The Seed Traders' Association, Bombay, say:

"Under the provisions of the Bill even casual partnerships which are formed for single transactions are liable to be registered. In the nature of things it is impossible to effect their registration, inasmuch as most of these ventures have to be embarked upon at the spur of the moment. My Committee therefore feel that if these ephemeral partnerships have to be registered such legitimate ventures are likely to be adversely affected.

But the most adverse effect of necessity for registration will be felt by small trading firms. . . . . "

The Bombay Shroff Association say this:

"My committee are of opinion that as interest on trading capital is taken as an item. . . . . "

Sir Lancelot Graham: Sir, I do not wish to interrupt the Honourable Member. I appeal on behalf of the Reporters because it is of very great importance that the reports should be accurate. Could you, Sir, suggest to the Honourable Member that, in reading selections from opinions, he should read them at such a pace as we can understand and the Reporters also can take them down?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Please read it a little slowly so that the House may be able to follow.

Diwan Bahadur Harbilas Sarda: I will try to cultivate the habit which has been cultivated by Members on the opposite Benches of replying to questions so slowly and in such a low tone as not to be heard on this side of the House so that no supplementary questions may be put. The Grain Merchants' Association, Bombay, say:

"Although the registration is stated to be optional the disabilities arising out of the non-registration are such as to make registration almost compulsory. . . . . My Committee suggest that the Chapter on registration should be entirely dropped from the Bill."

I want to read this . . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is quite welcome to read as long as he likes. The idea is that he should read it in such a way that Honourable Members may be able to follow.

Diwan Bahadur Harbilas Sarda: I am only reading from the papers circulated by Government, and I know that it is not necessary for my object, if this Bill can be considered thoroughly, to read all these . . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): No one has objected to the Honourable Member reading. It is suggested that he should read slowly to enable the House to follow what he is reading.

Diwan Bahadur Harbilas Sarda: Very well, Sir. The Marwari Chamber of Commerce, Bombay, say:

"While therefore nominally it is optional for a firm to get itself registered or not, in practice either every firm will sooner or later be compelled, by force of circumstances, to embrace registration or business in partnership will be discouraged and business enterprises will be materially crippled as a result. This is a very radical and sweeping change from the existing position. . . . .If this clause is not cut out, serious harm will be caused to Indian trade and commerce. In rural areas throughout the country there are innumerable, little partnerships formed for small ventures or undertakings from time to time in course of the year and particularly during the movement of crops. It is simply absurd to suggest that the illiterate, simple-minded folk who enter into these partnerships should go through the troublesome process of registration and conform to the elaborate rules of intimating changes in their firms, places of business, etc. . . . .Besides, such a sweeping change cannot be justified except on the ground of a general and widespread dissatisfaction with existing conditions. My Board are not aware of any general complaint in respect of disclosure of composition of partnerships. In view of this my Board strongly recommend that clause 68 should be deleted."

The Sholapur Merchants' Chamber say:

"Section 68 of the Act would be a great hindrance to the progress and development of trade in India."

The Indian Chamber of Commerce, Coimbatore, say:

"In respect of the registration of firms, the provisions are likely to create a lot of complications and uncertainty. Any firm need not register except when faced with litigation and if a suit has to be filed to-morrow, the firm may, in view of the suit to be filed, make several statements regarding its constitution and register itself to-day, especially as the matter stated therein is to be 'conclusive proof' as against the persons making it. If such a procedure is possible as has been stated in page 5, paragraph 17 of the report of the Select Committee, where is the necessity for registration at all and what is the benefit to be derived therefrom? At the outset it is clear that the one important factor which can be said in favour of registration of firms is that there can be no uncertainty with regard to the constitution, terms of working of the firm, and any third party wishing to deal with the firm can with security do so as the constitution, etc., is preserved by registration which is conclusive proof of the matter registered. . . . .If the third parties do not require the firm to register, then a suit can be filed by the firm against third parties, and third parties cannot in such a suit take any objections. . . . . "

The Burma Indian Chamber of Commerce, Rangoon, say:

"Having regard to the conditions now prevailing in India, my Committee believe that the proposed disability would be regarded as a hardship."

Thus, it is clear that practically the entire business community of India which has been consulted—and it has to be remembered that the business community of India alone is affected by this Bill—opposes it. Will the Government now withdraw this Bill if, as my Honourable friend Sir Lancelot Graham said the other day that in order to get support to a measure it must be shown that there is an overwhelming support in its favour? If that principle holds good, I wonder whether, after what I have shown that not only is there no overwhelming support to the Bill but that the overwhelming opinion of the community affected by it opposes it,—I wonder whether they will withdraw the Bill.

Mr. L. V. Heathcote (Nominated Non-Official): Mr. President, as this Bill is a Bill which is mainly concerned with re-stating the law on partnership, I would not ordinarily wish to take part in a debate on the motion that the Bill be considered. But as my Honourable friend Diwan

[Mr. L. V. Heathcote.]

Bahadur Harbilas Sarda has made several references to the British mercantile community in India and their claims, I think perhaps it is up to me to make a few remarks in regard to this motion.

It was suggested that Chapter VII of the Bill which deals with the registration of firms was inserted by the Government of India to meet the claims of the British mercantile community. Now, the claims of the British mercantile community are that registration should be compulsory on the same lines as it is compulsory in England, which has the effect of preventing a partnership firm from instituting a suit unless the cause took place after they were registered. Consequently that is definitely compulsory registration. Another claim that has been advanced by a large part of the British mercantile community is that the Hindu undivided family should be made to register in the same way as an ordinary partnership. Now, neither of these provisions which have been claimed by the British mercantile community finds any place in this Bill. So, it seems to me an altogether wrong suggestion that my Honourable friend has just made, that this chapter of the Bill finds its place there because the Government wished to meet the claims of the British mercantile community. The last speaker made reference to the fact that there was no advantage to the third party from the registration of a partnership, and endeavoured to lead the House to believe that because this Bill does not attempt to alter the rights of a third party to institute a suit against an unregistered firm, therefore the third party was in no better position than without this measure. That surely is hiding from the House the obvious underlying feature of the need for registration, namely, that there can be very few firms trading for any length of time and to any considerable extent who sooner or later will not be confronted with the necessity for instituting a suit themselves, and because they will never know at what time that necessity may come upon them, it will be inevitable that such firms of standing will take care to register themselves and thus enable them to institute a suit whenever the necessity arises. That will therefore provide the security for the third party who wishes to know whom he is dealing with At present there is no means of ascertaining whether a person who appears to be a partner in a private firm is in fact a partner and when a suit comes to be instituted it appears that that man who has considerable wealth behind him and upon whose known reputation as a wealthy man credit was given to the firm, when that suit comes to be instituted it is found that he is merely a creditor of the firm who has lent money upon perhaps onerous terms of interest but still is not a partner and therefore not liable to share in the debts proved against the firm. I feel therefore that all that was said by my Honourable friend Diwan Bahadur Harbilas Sarda in regard to this chapter not providing what it sets out to provide was a very considerable misrepresentation of what it actually does. One might also be led to suppose from what we have just heard that registration was a very arduous and difficult process to go through and that consequently small firms, of which there are many thousands in this country, managed by people not ordinarily expected to know the details of the law on such subjects as partnership, would find the process of obtaining registration such an arduous and difficult one that it will be impossible for them to carry out the provisions of this Bill if it were passed. That surely is a very gross exaggeration of exactly what is involved by this

measure which gives inducements to firms to register. There is no necessity to register in the first place until the actual need to institute a suit arises. When that need arises it must surely be always necessary or so often as to make it practically correct to say, always for the firm wishing to institute a suit to go to somebody in the legal profession and asks him to start the ball rolling, and the first question that that legal professor or advocate or vakil or solicitor will put is, "Are you registered?" If the firm is not registered, it will surely be a very simple matter, in fact it is a very simple matter, for the firm to become registered and then the court will admit the suit and there will be no difficulty to the small firm to carry out the provisions of this Bill when the need arises.

To refer for a moment again to the claims of a large section of the British mercantile community that the Hindu undivided families should be brought within the scope of this measure, it was made very clear to me during the discussions in the Select Committee that this was a matter which would find no proper place in a Bill dealing with partnerships, and whatever may be the views of those Chambers who have asked for protection in the matter of Hindu undivided families, whatever their opinion may be as to the desirability of having a measure which will enable traders to ascertain with whom they are dealing, whether it is with a Hindu undivided family or with a particular member of that family, it is obvious to me that this is not the proper place in which to carry that measure into effect. The last speaker referred to the allegation that the existing law was adequate to enable a third party to ascertain who were partners of a firm, but surely he omitted to draw the attention of the House to the fact that it is only when a suit is instituted that that information becomes available. One wants to know beforehand with whom one is dealing, whether the fortune of the people in the firm is sufficient to justify one in giving them that measure of credit for which they are asking, and although we have heard a long list of names of bodies who have objected in a greater or lesser degree to this chapter on registration, the fact remains that the other members of the Select Committee had no complaints to make of the unfairness or harshness of the provisions under this chapter. Consequently I have to support the motion now before the House.

Diwan Bahadur T. Rangachariar (South Arcot *cum* Chingleput, Non-Muhammadan Rural): I have great pleasure in supporting the motion before the House, and I congratulate the special committee and the Select Committee on the way in which they have discharged the arduous task they have undertaken. The Bill, as produced by the special committee, composed as it was by the ex-Advocate General of Calcutta and my Honourable friend the present Advocate General of Madras, is a worthy one. They examined the law on the subject with great care and detail and as regards my Honourable friend Sir Lancelot Graham, although we have quarrels with him for his political sagacity and ingenuity in framing Ordinances, we have no quarrel with him so far as this Bill is concerned. We must also congratulate him on the way in which he has discharged the task which he has undertaken. Sir, it was a very difficult subject which they had undertaken to legislate upon, and a separate Act was long needed in regard to partnership law. The provisions of the Contract Act dealing with partnership were insufficient and in many cases required to be clarified, as has been admittedly acknowledged by all authorities who

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have had to deal with the subject. In all Presidency towns where these questions of partnership law come frequently into play, such difficulties have been met very often, and therefore I think the trading community should congratulate itself that they can now look to a particular Act for finding out the rights and liabilities for themselves and as between themselves and also between themselves and third parties codified in one single Act instead of their having to look at various portions of the Contract Act. There is not much to be said, Sir, by way of criticism of the Bill. The whole thing has been thoroughly investigated but there are one or two points which require some examination at the hands of this House, which I will mention at once before I proceed to deal with the points taken by my learned friend to my left. There is one portion of the Bill making the minor personally liable for contracts and liabilities entered into even before he becomes a partner of the firm, when he attains majority. I can quite understand the justice of enforcing all claims against his assets in the firm, but I do not see what justice there is in giving a personal right against the minor when the minor elects to continue the partnership of the firm into which he was taken as a partner as a minor, or rather to the profits of which he was admitted to a share. So long as he enjoyed the profits and those profits formed the assets of the firm, let the assets be held liable, but why make him liable for liabilities incurred from the date of his being admitted to the benefits of the partnership, which may be long before he elected to become a partner? It is very difficult for a minor, when he elects to continue a partnership the benefits to which he has been admitted, to investigate all the accounts and find out how they stood and what real liabilities he was undertaking when he elected to become a partner . . . .

The Honourable Sir Brojendra Mitter (Law Member): The law of limitation is a safeguard.

Diwan Bahadur T. Rangachariar: That is true. Still, my Honourable friend knows there may be acknowledgments, there may be payments, there may be various other ways in which the law of limitation may be extended and it would be no use invoking the law of limitation because the acknowledgment of partnership by the managing partner would be quite sufficient to keep the debt alive and all these other things, so that it will not be real protection. I therefore have serious doubts as to the justice of making the minor personally liable and making his other properties liable for contracts entered into before he entered the partnership. I do not see any comment on this point in the Select Committee's Report. I looked for it in vain, although my friend, Mr. Varadachariar, a leading lawyer of my Presidency, took the objection in his opinion on the Bill. I should like to be enlightened on this point as to how the Honourable the Law Member proposes to justify the insertion of such a clause. The persons who enter into contract with such a business, when they know there are minors entitled to the profits, do not look to the minor's person to enforce their claims which arise, and they do so with their eyes open. Here is a man entitled to profits, and they know perfectly well that he is not a partner and that therefore he may or may not elect to become a partner later on, and they never enter into a contract with any idea of enforcing any claim they may have against the person of the minor who afterwards chooses to become a partner, and therefore it appears to me that it is an injustice to make the minor

liable personally and to hold all his other properties liable and not merely the assets of the firm. I think, Sir, some method should be found of easing the burden on the minor, as such a burden would make his task very difficult after he attains majority. Otherwise, Sir, the provisions of the Bill are very reasonable. I cannot help feeling that much of the opposition to chapter VII of the Bill is based on some real misapprehension as to the scope of that chapter. My Honourable friend has been confusing the issue by saying that this change has been made at the request of the European firms and so on. He should consider the question on its own merits. After all, we are dealing with a trading business. A Hindu joint family business may be a trading business or mere agriculture. A joint family business is not touched by this Bill or by that Act: a joint family business arises out of status, not out of contract. This partnership law deals with what is secured by way of contract, by way of agreement between parties, so that a Hindu joint family trading business is not affected by this Bill. The ordinary Hindu law governs it. Therefore, let there be no misapprehension on that point. What is it that the European firms wanted? They wanted to know the varying changes in a Hindu family when they wanted to trade with that family, and they wanted the compulsory registration of each Hindu joint family, to which of course there are numerous objections and these have been recognized as valid by the Special Committee, and I am glad to learn that the Select Committee also agreed in that objection, notwithstanding the very strenuous representations made to the Select Committee by those European Chambers of Commerce, who wanted such registration. The question is different when a Hindu joint family as such joins third parties in a business, and enters into contract with third parties in conducting the business. Now there is no Hindu joint family without the *Kartha* or manager. The whole of the business is carried on, whether it is a family trading or doing agriculture—mostly agriculture—or any other business with the family *Kartha* or manager; he will not be the eldest member necessarily but he does the business for the family, and therefore if a Hindu joint family enters into a contract of partnership with third parties, we must assume that the *Kartha* does so or that the managing member does so. The managing member has got the power under the Hindu law to do various things for the benefit of the family, and all those acts are binding on the family in other respects. Similarly when the *Kartha* deals with third parties and enters into business transactions with them, then the Bill makes the provision that he alone shall be looked to as the person liable. I do not see what injustice there is in enacting such a provision. On the other hand you must look at the matter from this point of view. Our people are very shy of trading, you must encourage them to trade, and make it easy for them to trade with these foreigners as we call them, with these exploiters as some call them. When some of our people have to trade with them, why not make it easy for them to do so? Why throw difficulties in the way of trading with these people? There are thousands of people who are so dealing with them, and if there are difficulties which one class of people feel, unless the remedy proposed is injurious to the interests of the people, why should we stand in the way of such facilities being given? My Honourable friend has not really produced any instance of hardship or injustice which will be inflicted upon a Hindu joint family when it enters into a contract with a third party. If the manager is the party who enters into the contract, he must have authority to discharge that contract; he must have authority to get the enforcement of that contract; he must have

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the authority to deal with it in the usual way he does. I do not see what injustice there is in that. If a member of a joint family misbehaves or if he defrauds the members, then you have got the remedy against him and against the share of his property. Otherwise you will be throwing difficulties in the way of the Hindu joint family which is really transacting valuable business.

I am really unable to see what difficulties there are which are created by this registration process. On the other hand, registration is not made compulsory from the very beginning. As my Honourable friend himself has pointed out, this registration is absolutely useless so far as parties dealing with it are concerned because you may register the previous day and bring the suit the next day. Persons may enter into a contract and then at the time the suit is brought, just a day previous registration is made and deemed enough to enable the firm to sue. The Committee have made a provision in that way against which we need not object. I can say this, that it is not in compliance with the demand of the European community who wanted registration even before the contract was entered into. Now, there is really one difficulty which I feel in the matter of registration. I see that clause 10 provides for what is known as partnership for particular ventures or adventures or undertakings. Now, apparently under section 68 even such a partnership would have to be registered before members can enforce their rights under such a partnership. For instance, take the case of building a hall. A and B may enter into a contract. Or it may be for supplying a particular article. There, again, A and B may enter into a partnership for the same purpose. I do not understand the necessity of compelling them to register before they can enforce their rights against each other or against third parties. I understand that the object of registration is to conduct partnership where business is carried on for a sufficiently long period. But where it is limited for a short time—and in this connection I must appeal to business men,—and where it is limited for a single purpose, why should you compel them to register in order to enforce their rights? Although clause 10 provides for partnerships of that sort, still I do not see any provision in the Bill dealing with such partnerships. All partnerships are treated *en bloc*, and I do not see any particular provision being made for this limited or particular partnership. Apparently, they are all treated on the same footing. That, I should think, is a real hardship. I know of many cases where partnership is entered into for one transaction only. Such cases ought to be properly dealt with. They are partnerships pure and simple, but at the same time I do not see what reason or logic there is in enforcing the registration of such partnerships. I also sympathise with my Honourable friend to my left and also with many of the representations made by some of the Indian Chambers and Indian Associations as regards the small outlying firms which may enter into transactions. But the difficulty is, where are we to draw a line in such cases? At any rate, speaking of my province, I can say that the

4 P.M. people are not so ignorant as perhaps in other provinces. There may be outlying areas where people do not know the law of partnership and other things or the method of registration. But people living in towns are quite accustomed to registering documents and to registering companies. I do not think much hardship is inflicted in such cases in the case of advanced provinces. Possibly in Bombay, too, they may claim greater credit for the knowledge of these things than Madras

can. But where there are such provinces as do require exemption, power should be taken to exempt them. I believe power is taken under this chapter to exempt areas from the operation of that chapter. I think it is a highly essential provision which the Committee have made. On the whole, I endorse the measure which is before the House and I strongly support the motion that the Bill be taken into consideration.

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): Sir, I would not have intervened at this stage of the debate had not Diwan Bahadur Harbilas Sarda to a certain extent criticised and rather abused the Law Member and his department for having, as he said, indirectly brought in the joint family partnership into the purview of this Bill, although in the provisions it is stated that such a partnership would not form part of the Bill. I was a member of the Select Committee and we had long discussions over everything connected with this Bill but not a single word was said in the Committee by the Chairman of the Committee, namely, Diwan Bahadur Harbilas Sarda, regarding the charge which he has now thought fit to make. As a matter of fact, such a charge cannot be made in law. He says that a partnership by a member of a joint family with a third person must, if registration is to be completed, disclose names of all the members of the joint family, and thereby the joint family is brought into the purview of this Bill.

Diwan Bahadur Harbilas Sarda: I never said that.

Mr. S. C. Sen: I am sorry to note that a gentleman of Diwan Bahadur Harbilas Sarda's abilities, who says that he was a member of the judiciary for over 35 years, should show so much ignorance of the law regarding partnership and also regarding joint family. We expected something better from him. For his edification I would ask him to read an elementary book on Hindu law by Sir D. F. Mulla. On page 252 he says:

> "It is competent to the manager of a joint family business acting on behalf of the family to enter into a partnership with a stranger, but such a contract does not make other members of the joint family partners."

That is an elementary proposition of law which every law student is supposed to know, not to say of Diwan Bahadur Harbilas Sarda who has spent his life, as he says, in the judicial department. Sir, I am surprised that on the basis of his ignorance of the law he should throw on the devoted head of the Law Member abuses and criticisms which were absolutely unjustified. Of course, the Law Member is quite capable of taking care of himself in these matters, but as a member of the Select Committee I take strong exceptions to the aspersions made.

Then, Sir, he also spoke with regard to Order XXX of the Civil Procedure Code relating to suits by a firm. A partnership firm can file a suit in the name of the firm and if any party in the suit wants the plaintiffs to disclose the name of the partners, they are to do so, and he says, as we have got this provision it is not necessary for you to have registration. The simple answer to that is that whereas you have got a register of partnership which is open to the public and which you can inspect at any time, you may not know whether any particular suit has been instituted in any court and it would be difficult for any stranger to go through and inspect the records so long as the suit is pending. As a matter of fact under the rules of the Calcutta High Court a stranger to a suit cannot

[Mr. S. C. Sen.]

inspect the records of a pending suit. The register is a pubilc document and will be open to the public and therefore it affords a medium through which you could know the names of the partners of any firm.

As regards his criticism regarding not making the provision for registration obligatory, I do not think he said anything about that in the Select Committee. Moreover, as the Bill was drafted, the Government of India did not want to make the provision of registration obligatory for various reasons. It is a new innovation in this country and it may not be known to many persons that such a thing has been made obligatory. But what they say is that it is not obligatory on you to have the partnership registered so long as you do not want to bring a suit. If you want to bring a suit you should register before that date. For the purpose of bringing a suit even an ordinary small trader will have to go to his pleader in the mofussil and be advised by him, and any pleader worth the name should advise him or should enquire whether the partnership has been registered or not. I do not see where the hardship comes in. He says, and that was discussed in the Select Committee, that small partnersip should be excluded. It was pointed out that there was difficulty in defining what was meant by a small partnership. We thought he was satisfied with that difficulty that there was an insurmountable difficulty as to the definition of small partnership. He has now put in an amendment that a partnership, the capital of which as disclosed is Rs. 1,000 or Rs. 2,000, ought to be excluded. That means that even in the mofussil the small traders who do not know the provisions of the Partnership Act, would be presumed to know the law so as to make a partnership deed themselves and to pay a stamp duty of Rs. 10 in a place where no stamp can be obtained. I do not think the Diwan Bahadur thinks that these are hardships, but he thinks that there is hardship for a firm to register. He was the Registrar I understand for sometime and he knows the difficulties of parties.

Diwan Bahadur Harbilas Sarda: Not a Registrar of firms.

Mr. S. C. Sen: Probably he is referring to the difficulties which he experienced at the time when he was Registrar. But these are times when people know their rights more or less and therefore the difficulties which he imagines were still in existence probably no longer exist. With these remarks I support the motion.

Mr. S. G. Jog (Berar Representative): I am very thankful to the Chair for the opportunity that is given to me. The Bill on partnership which is meant to settle the law has created a sort of confusion between the classes which belong to the legal profession. We find on the floor of the House how it has caused misunderstanding between a gentleman who had been for over 35 years in the judicial service and a gentleman who is an active solicitor of the Calcutta Bar. If this sort of measure is likely to cause confusion between two such legal luminaries, I would like the House to realise what sort of panic and confusion it will create in the villages and in small business concerns to whom it is intended to apply. The Members of the Select Committee, including Mr. Sen and Mr. Heathcote, only know about big business concerns. I doubt very much whether they have got any idea about the business ways of small

concerns in villages and in small towns with a population of 5,000 or 6,000. These people look at the provision from a different point of view. None of them have approached the question from the villager's point of view or from the point of view of the small business men. That sort of difficulty which will be created in the way of these people in carrying on their small business, I doubt very much whether these people have realised at all. I can perfectly understand the panic of small traders in places like Calcutta, Bombay or Madras and in some such Presidency towns. I, for one, see the difficulty and also the necessity of improving the present law so as to bring it into line with the improving conditions of trade and commerce in all those places. But the trade is still in its infancy in the outlying stations, and if you make a stringent law which may be useful for some such Presidency or business towns, it would be very hard for small town people and people with small concerns. Out of the Members of the Select Committee I find only my friend Mr. Sarda who has applied his mind to the difficulties of the village people. I take this opportunity of congratulating him over the pains he has taken and for giving out the view of the small concern people. I must also congratulate him on the fact that he can apply his mind to these technical questions of partnership with the same zeal and enthusiasm with which he has applied his mind to questions of widows' rights and inheritance. Apparently there is a difference of opinion between these two people as regards the small traders in Calcutta and other Presidency towns and the small traders in other stations.

I am in general sympathy with some of the provisions of the Bill but as I have already stated it is necessary, as trade and commerce progress and as commercial ideas progress, the law should be brought into line with the modern notions of the trading community. But so long as such provisions are not made as to exempt small concerns and people in the villages, I, for one, am not prepared to lend my support to this Bill. I think my Honourable friend has explained that there are some difficulties and if these small concerns are to be excluded, I think those who are well versed in law should find no difficulty in finding out suitable words for making the necessary provision in the Bill. If the idea is, as declared by my Honourable friend, Mr. Heathcote, that the small trading community should have an idea as to with whom they are trading so that they can fix their credit or liability, if that is the idea underlying this question, then I cannot understand how that object can be served by getting that firm registered only the day previous to the filing of the suit. Supposing they carry on business for a number of years and there is no occasion for any litigation, or if no occasion arises for bringing a suit, when they go to court for filing a suit and if only the day previous they get the names of the partners registered, how does that serve the purpose of getting a list of those with whom they are trading or know what fee should be paid and so on? I cannot for a moment understand how that purpose will be served by getting it registered a day before, unless you introduce some such provision that as soon as a partnership is formed, it should be registered within three or six months and its actions will be effective only from that time; just as in the case of registration of documents there is a provision that it should be registered within such and such a time, or if any effect is to be given to the document it will be given if it is registered within a certain time. But in this particular case, for years together they may go on doing business and you only want

[Mr. S. G. Jog.]

to block the way for the institution of a suit. That in no way serves the purpose for which the provision is meant.

Then I was told that there is some difficulty in the execution of decrees in the case of these partnership firms, and as regards that we find, as quoted by Diwan Bahadur Harbilas Sarda, that there is already a provision in the Code of Civil Procedure that if there is any difficulty about proceeding against them in execution, the plaintiff can call upon the other side to disclose the names of the partners. In that case there is absolutely no difficulty about the execution of the decree which ultimately will be passed. But if the object of the provision is to give the idea, as I said already, of giving the other party with whom he is dealing the names of all the partners, then it should be done long before and it should not be done only a day previous to the filing of the suit. That frustrates the object for which it is meant.

As regards the position of the joint Hindu family, so far as I can see there is nothing to take any objection to in the provisions of the Bill as framed now. My real difficulty, as I have explained, is as regards the small concerns, and I think if this Bill is passed as it is, instead of encouraging business on lines of partnership, it will be a sort of clog and it will go a great way to discourage partnerships which are coming into existence in villages and small towns.

Sir, with these observations I submit that unless the Bill is improved on the lines I have suggested, I for one am not prepared to lend my support to it in its present form.

The Honourable Sir Brojendra Mitter: Sir, with regard to Diwan Bahadur Rangachariar's point that a minor when he elects to join a firm as a partner undertakes, under the Bill, personal liability for all the debts of the firm, that is a matter which the Special Committee considered with very great care. It is based upon the principle that a person who retains a share in a partnership cannot retain it without its incidental obligations. Under the Bill he gets six months' time after attaining majority to make up his mind and elect whether to come in as a partner or to go out. Six months' time is long enough for him to know the affairs of the firm. If he elects to join with his eyes open, why should he not be put in the same position as all the other partners? If he comes to the conclusion that it is beneficial for him to join the firm and yet not undertake the liabilities of the firm, all he has to do is not to join, then, as an outsider, come to a separate agreement with the partners. In that case he can get rid of the previous liabilities of the firm. He does not join on attaining majority under the terms of this Act but he joins as a stranger. First of all he makes up his mind that he will not join; then he enters into an agreement with the partners, if they are all willing, and he comes in as a new partner. If he comes in as a new partner, of course the old liabilities would not fasten on him. If the minor on attaining majority elects to join by undertaking all liabilities, the Bill provides for that; if he elects to join without the previous liability, he can still do so by the other method which I have just now mentioned. Therefore there is really no hardship. It is not the case that a minor jumps into a position without knowing the dangers of that position. We took all this into consideration and we thought that the only case that ought to be provided for was the continued connection of the minor with the firm after he attains majority.

The only case which required specific provision was the case where the minor on attaining majority continues his connection with the firm. In the first stage he got only the benefits of a partner and in the second stage after attaining majority he is a partner.

Then, Sir, I may also draw Diwan Bahadur Rangachariar's attention to the fact that sub-clause (7) of clause 30 was in the original Bill as introduced. It was not introduced for the first time by the Select Committee.

Sir, I want to say a word or two about small partnerships about which we have heard so much. First of all, what is the definition of a small partnership? We do not know any such expression in legal literature. It is a popular expression. If you say it is a partnership of which the capital is below Rs. 2,000 or below Rs. 1,000, if that be the conception of a small partnership, I shall deal with that when we come to the amendments. I need not say anything more about that at this stage. But with regard to the alleged hardship to small partners, it is well known that if any man, however ignorant or illiterate he may be, buys immoveable property worth Rs. 110, he has got to register it. Is there any hardship there? If people start business in partnership they need not register, under this Bill, but if in the course of that business they have to enforce any rights in a court of law, they must register. Mr. Jog asked, how does it help one? What he argued was that if registration is effected immediately before the suit, it cannot help the third party, because he never knew the names of the partners or the other matters which are provided for. The answer is simple. These provisions are permissive, optional. When a third party enters upon business relations with a firm, and if that third party wants to know to whom he is giving credit or with whom he is dealing, the first thing he will ask is "Are you registered?" They say "No". He says "I cannot deal with you unless you get registered." In that way it protects the third party, although for the benefit of the partners we have provided that they may register any time before they go to court to enforce a right.

That brings me to the other argument which has been adduced on the basis of Order XXX of the Civil Procedure Code. It is said that Order XXX serves the purpose of disclosure of the names of the partners. Sir, that does not protect a trader who trades with the firm, because Order XXX says that, when a firm sues a third party, the defendant can insist upon knowing who the partners are.

What is the every-day experience of any man who knows anything about partnership cases? In such cases the issue of partner or no partner frequently arises. Supposing a firm called X & Co. brings a suit against A. A makes an application to court saying "I want to know who X & Co. are." X & Co. say that X and Y are the two partners of X and Co. But A says "No; Z also was a partner of X & Co." The question immediately arises whether Z is a partner of X & Co. or not. It is in order to avoid the determination of the issue whether Z is a partner or is not a partner that registration will be extremely useful; it is to meet such cases that provisions of the Bill are necessary. Order XXX does not avoid the issue.

In many cases of partnership what happens is this: that the substantial man stands back and the impecunious men are put forward as the partners; and in all such cases there is an issue whether the substantial

[Sir Brojendra Mitter.]

man is a partner or is not a partner. Money and time are wasted and perjured evidence, both oral and documentary, is produced in court in support of the one contention or the other . . . .

Mr. R. K. Shanmukham Chetty: Supposing that in the particular case of X & Co. that has been mentioned, before bringing a suit, X & Co. register themselves as only consisting of X and Y as partners, omitting one man, what happens?

The Honourable Sir Brojendra Mitter: We have provided for penalty for that: if the fraud is discovered there is a penalty—the sanction provided in clause 69:

"Any person who signs any statement, amending statement, notice or intimation under this Chapter containing any particular which he knows to be false or does not believe to be true, or containing particulars which he knows to be incomplete or does not believe to be complete, shall be punishable with imprisonment which may extend to three months, or with fine or with both."

I was dealing with Order XXX. That Order really comes into play in the execution stage. But Order XXX is no protection to the third party who deals with a firm. It is for the protection of the honest third party that chapter VII has been devised; and not merely for the honest third party, but for the honest partner also. Very often, as lawyer Members of this House know, when there is a suit for dissolution and accounts as between partners, a man who wants to deceive his co-partners says "I was never a partner; I was only a creditor of the firm." Here again, for the protection of the honest co-partners, provision for registration would be extremely useful. It is not merely for the protection of the honest third party dealing with the firm, but also for the protection of the partners themselves. The sanctions which are provided in the Bill are sanctions which are available not merely to the third party but to the partners also. The only case in which we do not insist upon registration is the case of dissolution. If a firm breaks up, the necessity of registration as a condition precedent to the maintenance of a suit has not been insisted upon because as the firm was breaking up we allow them to adjust their affairs as best as they can.

That deals with practically all the points which have been raised in the course of the debate, except those raised by Diwan Bahadur Harbilas Sarda . . . .

Diwan Bahadur T. Rangachariar: May I ask what about partnership for a particular purpose?

The Honourable Sir Brojendra Mitter: Those may be single ventures; and if Diwan Bahadur Rangachariar will go through the Bill he will find that we have provided for single venture partnerships. The Diwan Bahadur is aware that it is always a question, whether a single venture is a syndicate or joint ownership or what the exact relationship is. On that there is a good deal of controversy. In order to set all controversy at rest we have placed them on the footing of partnership.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Will that have to be registered—partnership in a single venture?

The Honourable Sir Brojendra Mitter: Registration is not compulsory, but if they have occasion to go to court for any relief, they will have to register it and they can register it any time before suit. I will give an instance. Supposing three people buy a colliery with a view to run a mine in co-partnership . . . . .

Diwan Bahadur T. Rangachariar: That will be a going business; it will not be a single venture.

The Honourable Sir Brojendra Mitter: No; it has got a bearing on single venture, if after buying this colliery they give up the idea of running the colliery. What is it? Is it a partnership or is it not? It was a single venture in so far as the acquisition of the colliery was concerned. But then they contemplated doing further business in raising coal and selling coal. It has been held in some cases that that is not a partnership, but co-ownership of the colliery; only when they actually begin raising coal and selling coal that the partnership begins; but before that up to the point of the acquisition of the colliery it is merely co-ownership.

Sir Abdur Rahim: What would be the advantage in registering it before suit—partnership in a single venture.

The Honourable Sir Brojendra Mitter: The advantage is this: supposing there are five people in a single venture and one of them finding it is a losing business says, "I was never a partner: I only advanced money." In registration you will have to disclose the names of partners.

Sir Abdur Rahim: Whether it is a partnership or not is to be gathered from the terms of whether they are to share profit or loss—not merely by using a word: the nomenclature is not of any consequence at all.

The Honourable Sir Brojendra Mitter: The Bill does not purport to say that what is disclosed before the Registrar is conclusive evidence against third parties of who the partners are. It is only, as I have tried to explain, meant for the protection of third parties; to know with whom they are dealing. It binds the declarants. If there be any false statement made at the time of registration, then there are penalties provided for in the Bill itself. Now, that is the sanction to ensure correct statements for the protection of third parties.

Diwan Bahadur T. Rangachariar: May I ask how by punishing a man who gives false particulars you can compensate the third party or the third party can enforce his rights? He will be losing all his capital.

The Honourable Sir Brojendra Mitter: It is only a sanction; penalty is provided against false particulars, because then the inducement will be not to give false particulars; not that it is a direct protection to third parties in the sense of any kind of compensation. As the Penal Code is protection to the whole of the community not by way of compensation . . .

Diwan Bahadur T. Rangachariar: The Honourable Member will see that by making this register conclusive evidence, the third party cannot prove the truth that the person omitted was himself a partner. . . . .

The Honourable Sir Brojendra Mitter: It is not conclusive evidence.

Diwan Bahadur T. Rangachariar: It is not registered; the person omitted cannot enforce his rights . . . .

The Honourable Sir Brojendra Mitter: I am afraid I cannot follow the Honourable Member's point. We do not suggest for a single moment that it is conclusive proof of anything as against third parties. As a matter of fact, we have provided that a third party may sue an unregistered firm, but the unregistered firm cannot enforce any rights against third parties nor can any partner enforce any right as against his co-partners, unless it is a registered concern; but so far as the third party is concerned, it does not matter whether a firm is registered or unregistered; he can always sue . . .

Sir Abdur Rahim: Supposing A and B enter into partnership in order to buy a certain quantity of jute sharing profit and loss. Do you mean to say that without establishing any permanent business or anything of that sort, in a single transaction, it is the intention of this Bill that before two persons can enter into a single transaction like that as partners they must go to the registration office and register . . .

The Honourable Sir Brojendra Mitter: That is exactly what this Bill is not doing. Registration is not necessary in that case. It is not compulsory; it is optional. A and B buy jute in order to sell it and make profit. In that case, supposing they quarrel and they have to go to court, it means practically dissolution. Is not that dissolution? They started as partners, then they quarrel, and one sues the other for accounts; it is dissolution, and in that case registration is not necessary, and we have specifically provided for that. I would refer my friend Sir Abdur Rahim to clause 68, sub-clause (*3*) (*a*) which says this:

"The provisions of sub-sections (*1*) and (*2*) shall apply also to a claim of set-off or other proceeding to enforce a right arising from a contract, but shall not affect--

(*a*) the enforcement of any right to sue for the dissolution of a firm or for accounts of a dissolved firm, or any right or power to realise the property of a dissolved firm. . ."

Mr. R. K. Shanmukham Chetty: Sir, without raising the question of dissolution or winding up of the business in the particular case mentioned by Sir Abdur Rahim, suppose B dishonestly gets hold of all the assets of that single transaction, then A cannot file a suit for the recovery of money in the hands of his partner . . . .

The Honourable Sir Brojendra Mitter: He can, because if it be a single venture partnership, what is he suing for? He is suing for final accounts and for his share of the profits and assets. That is tantamount to dissolution of the relationship of partners which existed between A and B. After that, their relationship as partners will not subsist. That being so, it comes expressly within sub-clause (*3*) which says that, it:

"shall not affect the enforcement of any right to sue for the dissolution of a firm or for accounts of a dissolved firm. . . ."

If they constituted a firm, that firm is either dissolved or is about to be dissolved because it is a single venture. If it is dissolved, then sub-section (*3*) comes in. If it has not been dissolved, then the mere suing for accounts is a suit for dissolution, because, after all, what is a suit for dissolution? A suit for dissolution is that in which accounts are adjusted finally and decree made directing payment.

Sir Abdur Rahim: Supposing they quarrel before the transaction is completed, then what happens?

The Honourable Sir Brojendra Mitter: If it is a single venture, if one of them has to go to court, he must sue for dissolution; there is no other remedy open to him.

Sir Abdur Rahim: Should that single venture be registered or not?

The Honourable Sir Brojendra Mitter: No, it is not necessary to register that. That is precisely what we have provided in the Bill.

Sir Abdur Rahim: What clause is that please?

The Honourable Sir Brojendra Mitter: Clause 68 (*3*) (*a*) which says:

"The provisions of sub-sections (*1*) and (*2*) shall apply also to a claim of set-off or other proceeding to enforce a right arising from a contract, but shall not affect (*a*) the enforcement of any right to sue for the dissolution of a firm or for accounts of a dissolved firm, or any right or power to realise the property of a dissolved firm."

It must be a dissolved firm. Now, that takes me to the definition of "firm", and clause 4 defines a firm thus:

" 'Partnership' is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all. Persons who have entered into partnership with one another are called individual 'partners' and collectively a 'firm'."

Now, when there is a single venture between A and B unless they are partners, this Bill does not apply to them. We assume that A and B are partners, and as partners they embark upon a single venture. Before the profits are distributed amongst them, they quarrel, and one of them has to go to court to have their quarrel adjudicated upon. What will be the nature of the remedy which he will seek in that case?

Sir Abdur Rahim: Suppose one partner wants to enforce his right and make the other pay the amount which he promised to pay . . . . .

Diwan Bahadur T. Rangachariar: Or his right of access to books; supposing one wants to enforce his right of access to books?

The Honourable Sir Brojendra Mitter: In that case registration will be necessary. We say that if the firm is to go on, if one wants to inspect the books and so on, he has got to go to the Registrar's office and register, if he wants to file a suit . . . .

Sir Abdur Rahim: Will not that affect their daily business a lot?

Mr. President: Order, order: From the way questions are put and answers given, it appears to the Chair that the Bill is not properly understood by the Honourable House.

The Honourable Sir Brojendra Mitter: My feeling is this that Honourable Members have not taken the trouble to read the Bill. They have not read it, and that is my trouble.

Diwan Bahadur T. Rangachariar: I think the Honourable Member himself may read it again so that we can come to a satisfactory conclusion.

Some Honourable Members: Let the question be now put.

The Honourable Sir Brojendra Mitter: I have dealt with most of the points. As regards the last point which my Honourable friend Sir Abdur Rahim put to me, the provision of the Bill is this, that if the partnership is to go on and if during the continuance of the partnership any suit is necessary, not with a view to dissolution, not with a view to final accounts, in that case registration will be necessary, but if it be for the purpose of dissolution or for final accounts, then no registration will be necessary. That is the scope of the Bill. You may like it or you may not like it, but I am explaining that that is the scope of the Bill. So far as Diwan Bahadur Harbilas Sarda's criticisms are concerned, they are so puerile that I do not want to take up the time of the House in dealing with them.

Sir Hari Singh Gour: I think the Honourable Member perhaps has permitted himself to use an expression which on second thoughts he would not have used. He says that Diwan Bahadur Harbilas Sarda's criticisms were "puerile". I think that is not a parliamentary expression.

The Honourable Sir Brojendra Mitter: If that has given offence, I withdraw that unreservedly.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 16th February, 1932.

LEGISLATIVE ASSEMBLY.

Tuesday, 16th February, 1932.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President in the Chair.

QUESTIONS AND ANSWERS.

CONTROL AND MAINTENANCE OF RESERVED SUBJECTS OF POLICE, INCOME-TAX, ETC.

374. ***Mr. Badri Lal Rastogi:** (*a*) Will Government kindly state how the reserved subjects such as Police, Income-tax, Post Office, Railways, etc., are controlled and maintained by the Local Governments?

(*b*) Do the Local Governments contribute towards or bear the expenses of their maintenance?

(*c*) How are the accounts of the Local Governments and the Government of India calculated and reconciled at the time of the annual Budget?

The Honourable Sir George Schuster: It appears from the Honourable Member's question that he has not correctly understood the position regarding Central and Provincial finance under the present constitution and the financial relations between the Central and Provincial Governments. It is hardly possible to remove the misunderstanding by means of a question and answer in the House, but I shall be glad to explain the position to the Honourable Member at any time convenient to him.

APPLICATION OF THE 10 PER CENT. CUT IN PAY TO DUFTRIES AND RECORD SORTERS.

375. ***Mr. D. K. Lahiri Chaudhury:** (*a*) Will Government be pleased to state whether duftries and record sorters have been brought under the 10 per cent. cut in pay?

(*b*) Do these men get the benefits of superior services, *e.g.*, half pension, leave and travelling allowances on the conditions applicable to the latter?

(*c*) In case duftries are called upon to undergo a sacrifice in pay like higher paid men, do Government propose also to let them have the benefits which the latter enjoy? If not, why not?

(*d*) How many duftries have been fortunate to reach above Rs. 40 a month, and what is the total number employed?

The Honourable Sir James Crerar: (*a*) and (*d*). Duftries and Record Sorters are as a class exempt from the cut, but a few Record Sorters who are in receipt of personal pay in addition to the maximum of the grade

are subject under the rules to a cut of half the excess above the exemption limit of Rs. 40. I have not the figures which the Honourable Member requires, but they are being collected.

(*b*) and (*c*). These men are eligible for pension equal to half their pay subject to a maximum of Rs. 20. They are treated under the rules as inferior servants and are entitled to the leave and travelling allowances admissible to Government servants of their grade. I see no reason for treating them in the same manner as other Government servants belonging to the superior service in regard to these conditions of service.

EXEMPTION FROM SURCHARGES IMPOSED BY THE INDIAN FINANCE (SUPPLEMENTARY AND EXTENDING) ACT.

376. ***Mr. G. Morgan:** (*a*) Will Government be pleased to state what exemptions have been granted from the surcharges imposed by the Indian Finance (Supplementary and Extending) Act, 1931?

(*b*) Do Government propose to embody these exemptions in formal legislation? If so, when?

The Honourable Sir George Schuster: (*a*) I understand the Honourable Member's question to refer to surcharges on customs duties and to the assurance which I gave in this House on November 14, 1931, in the course of the debate on the Emergency Finance Bill. Three notifications have been issued, exempting—

(1) foreign salt (from the surcharge on the additional import duty only),

(2) cashew nuts, and

(3) cigarettes of a value not exceeding Rs. 6 per thousand.

(*b*) The exemption relating to salt will come up for separate consideration in connection with the question of extending the life of the Salt (Additional Import Duty) Act. The Government are not yet in a position to submit final recommendations to the Legislature in respect of the other two items. Further they consider that, standing by themselves, they are hardly sufficiently important to justify the preparation of a separate Bill. In these circumstances the Government do not propose to introduce a special Tariff Amending Bill this session.

Mr. G. Morgan: Will the Honourable the Finance Member say whether this remission automatically goes on to the 31st March, 1933, without the Legislature having the matter put before them?

The Honourable Sir George Schuster: No, Sir. I do not think the position quite extends to that date. For instance, as regards cigarettes duty exemption, we are watching the effects of the exemption which we have made and it is quite possible that if results indicated certain conclusions, we might come to the House before the 31st March, 1933. I can hardly commit the Government further than that on that subject.

CONDONATION OF BREAK IN SERVICE OF STATE RAILWAY EMPLOYEES.

377. ***Lieut.-Colonel Sir Henry Gidney:** (*a*) Will Government please state the policy underlying condonation of break of service of employees employed on State Railways?

(*b*) Will Government please state whether it is a fact that the Agents of certain Railways refuse consideration of condonation of break of service till the time of the retirement of the employee concerned?

(*c*) If the answer to part (*a*) be in the affirmative, do Government propose to instruct all Agents to discontinue this practice and to inform an employee soon after his re-engagement as to whether his previous services are to be condoned or not?

Sir Alan Parsons: (*a*) to (*c*). It has been the ordinary practice in the past not to consider questions affecting the gratuity of an employee, such as condonations of breaks of service, until the employee retires or is about to retire. The reason for this practice has been that a premature consideration occupies considerable time, very often with no tangible result. In view, however, of the large number of persons recently discharged to whom it is hoped, when conditions improve, that re-employment will be offered, the Railway Board are considering whether the past practice should not be modified.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member please explain exactly what he means by the word "modify". Am I to understand that the Government intend to alter the policy that is to-day practised regarding condonation of break of service? Or am I to understand that the 1929 Railway Board orders on this matter will be rescinded?

Sir Alan Parsons: It is the question of rescinding the Railway Board's orders of 1929, and substituting other orders for them that is now under the Railway Board's consideration. I expect we shall arrive at a conclusion very shortly, probably within a week.

Lieut.-Colonel Sir Henry Gidney: Arising out of the Honourable Member's reply, and in view of the thousands who have been recently retrenched and who must be re-employed when trade resumes normal conditions, will he please inform the House whether condonation of break of service will *ipso facto* carry with it not only service performed but a claim on all leave and furlough earned during that period of service?

Sir Alan Parsons: That, Sir, is a question of which I must obviously have notice.

CUTS IN SALARIES OF RAILWAY EMPLOYEES.

378. ***Lieut.-Colonel Sir Henry Gidney:** Will Government please state whether the retrenchment cuts in salaries of Railway employees are made in strict consonance with the statement made by the Finance Member in the Legislative Assembly with particular reference to the 10 per cent. cuts. and the inclusion in it of the surcharge of 25 per cent. in the income and super-tax? If not, why not?

Sir Alan Parsons: The answer to the first part of the question is in the affirmative. The second part therefore does not arise.

REVISED RATES OF PAY OF GOVERNMENT SERVANTS.

379. ***Lieut.-Colonel Sir Henry Gidney:** Will Government please state whether the revised rates of pay for the various grades of Government services recommended by the Retenchment Committee and accepted by the

Government of India will be applied to employees who entered into service before the date of the introduction of these rates when such employees are promoted to the higher grades?

The Honourable Sir George Schuster: The whole question of revised rates of pay, including the subsidiary point raised by the Honourable Member, is still under consideration by the Government of India.

Dr. Ziauddin Ahmad: When do the Government expect to arrive at a decision on this point?

The Honourable Sir George Schuster: I am afraid I am not in a position to prophesy.

TERMINATION OF THE SERVICES OF TEMPORARY ENGINEERS ON STATE RAILWAYS.

380. ***Lieut.-Colonel Sir Henry Gidney:** Will Government please state if it is a fact that the orders relating to the retrenchment on State Railways definitely stated that the services of all temporary engineers on the various railways should be terminated?

Sir Alan Parsons: The answer is in the negative.

Lieut.-Colonel Sir Henry Gidney: Arising out of the Honourable Member's reply, will he kindly inform this House whether or not it is a fact that the Railway Board's circular letter of 1931 regarding retrenchment on Railways, which I understand applies to all appointments including the Engineering Department, distinctly lays down that the order of precedence in regard to retrenchment shall be firstly temporary employees, next inefficiency, then least efficiency and so on?

Sir Alan Parsons: I believe the Honourable Member has correctly stated the purport of that letter.

Lieut.-Colonel Sir Henry Gidney: Arising out of that reply, will the Honourable Member inform this House whether or not it is a fact that the Railway Board asked for the recommendation of five temporary engineers to be appointed to the lower gazetted service and that four such temporary engineers have been recommended by the Agent of the Great Indian Peninsula Railway and that two of these temporary engineers, Messrs. Vatcha and Hill, whose agreements expired in October and December, 1931, have been re-employed, and their names are borne on the cadre of the lower gazetted service?

Sir Alan Parsons: That again is a question of which I must obviously have notice.

Lieut.-Colonel Sir Henry Gidney: The Honourable Member admits my statements to be correct, and yet when I ask him about the interpretation of the order . . . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Is the Honourable Member asking any supplementary question now? The Honourable Members on the Treasury Benches are entitled to ask for notice.

Lieut.-Colonel Sir Henry Gidney: Well, Sir! Since the Honourable Member cannot reply to that, will he inform this House whether he himself does not consider his own reply unsatisfactory? (Laughter.)

LOWER GAZETTED SERVICE ON STATE RAILWAYS.

381. ***Lieut.-Colonel Sir Henry Gidney:** Will Government please state whether it is a fact that the lower gazetted service of State Railways is reserved for subordinates promoted to official grade?

Sir Alan Parsons: As stated in the memorandum placed before the Central Advisory Council, the Lower Gazetted Service is intended essentially for specially selected subordinates, with no outside recruitment.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member kindly inform this House whether or not it is a fact that in the rules promulgated for bringing the lower gazetted staff into existence, it is definitely laid down that no outside recruitment will be made, and that the service will be manned entirely by promoted subordinates?

Sir Alan Parsons: To the best of my recollection, Sir, when the service was started, it was contemplated that it would then be recruited partly by the transfer of people already serving in the local traffic or engineering services. It is for that reason that it has not been recruited wholly by the promotion of subordinates.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member inform this House whether or not it is fact that Agents have informed temporary engineers that they cannot be recruited for the lower gazetted service owing to the fact that this service is entirely recruited for? I have got a letter with me from the Chief Engineer, Eastern Bengal Railway, to this effect.

Sir Alan Parsons: If the Honourable Member has already got the information, he does not require it from me. In any case I have not got it.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member accept it from me as correct that this is the view held and practised on Railways?

Dr. Ziauddin Ahmad: May I ask whether in the interests of efficiency it is desirable to have less qualified men promoted from the lower grades and to keep out highly qualified men who want to enter the service?

Sir Alan Parsons: This particular service was created mainly for the promotion of qualified subordinates. I do not think therefore that the Honourable Member's question arises.

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APPOINTMENT OF ASSISTANT TRAIN CONTROLLERS ON THE NORTH WESTERN RAILWAY.

385. ***Mr. B. V. Jadhav** (on behalf of Mr. S. G. Jog): (*a*) With reference to the replies given by the Honourable the Railway Member to my starred question No. 1292, on the 13th November, 1931, and Mr. Lalchand

†Questions withdrawn by the questioner.

Navalrai's starred questions Nos. 1361 and 1362, on the 18th of the same month, will Government please say whether the information called for from the Agent, North Western Railway, regarding the Assistant Train Controllers has been received by them?

(*b*) What is the cause of so much delay in replying to these questions?

(*c*) Are Government aware that these Train Controllers are living in great anxiety to know their eventual fate and do Government intend to relieve them of their present plight? If so, when? If not, why not?

(*d*) Has there ever been such a parallel in Government offices where men are not confirmed for years together and when once confirmed they are again reduced to a temporary grade and no action taken for months together to re-confirm them or pass orders one way or the other?

Sir Alan Parsons: (*a*) and (*b*). The information has just been received and replies will be laid on the table shortly.

(*c*) and (*d*). I would refer the Honourable Member to my reply to his question No. 1291 on the 13th November, 1931. I understand that the confirmations which were countermanded were not made with the personal approval of the Agent; and that, when the matter eventually came to his notice, the Agent was satisfied that the confirmations had been erroneously made and that the only satisfactory manner of rectifying the position which had arisen was to countermand the confirmations. This was within the competence of the Agent, and Government do not propose to intervene or to search for parallels in Government Offices.

TICKET-CHECKING ON THE NORTH WESTERN RAILWAY.

386. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Khan Bahadur Haji Wajihuddin): (*a*) Has the Railway Board seen the circular issued by the Divisional Superintendent, Delhi Division, drawing attention to the following case:

> A third class bogie was checked by an officer and inspector and out of 42 passengers in the carriage 35 were travelling without tickets?

(*b*) Are Government aware that the Railway Board is loosing a considerable amount of money on account of the system of checking tickets now being practised in the North Western Railway?

(*c*) Is it not a fact that the Railway Board is trying many experiments for checking tickets?

(*d*) Have Government considered the question of reverting to the old system of checking tickets by a traffic staff at the railway station supplemented by a comparatively better paid staff under audit?

Alan Parsons: (*a*) The Railway Board have not seen the circular d to, but I understand that a circular was issued in which attenas drawn to this case.

I am not prepared to accept the implication that the system of ıg tickets is leading to a loss of considerable revenue.

Various methods of checking tickets are in force on different raileach necessitated by local conditions. Some of these may be conl as experimental.

Yes. The system referred to was not in force on all railways.

DESPATCH OF BRITISH TROOPS FROM INDIA TO CHINA.

387. ***Mr. Gaya Prasad Singh:** Is it a fact that Government have advised the P. & O. Company to keep boats in readiness for the immediate embarkation of British troops from India to China? What troops, if any, have started, or are going to start for China; and for what purpose? How will their expense be met?

Mr. G. M. Young: Neither the P. and O. nor any other shipping company has been asked to keep ships in readiness for the transportation of troops to China. No troops have been sent, or are about to be sent to China from the Indian establishment. One battalion of British Infantry, which would in any case be leaving the Indian establishment shortly in the normal course of reliefs, is being sent to China by His Majesty's Government, but this will involve no expense to Indian revenues.

INTERCEPTION OF A TELEGRAM ADDRESSED TO MR. TOM WILLIAMS.

388. ***Mr. Gaya Prasad Singh:** (*a*) Is it a fact that a cable addressed to Mr. Tom Williams, M.P., by Miss Mira Ben, was intercepted and withheld; the money was refunded after many days; and the cable sent by post was delayed? If so, why?

(*b*) What was the text of the cable; and what was objectionable in it?

(*c*) Will Government kindly state how many cables sent from India to England were intercepted, or stopped, since November, 1931?

The Honourable Sir Joseph Bhore: (*a*) A message as described was withheld under the orders of the District Magistrate, under Section 5 (1) (*b*) of the Indian Telegraph Act, 1885 (Act XIII of 1885). The cost of the telegraph was refunded six days later. Government have no information as to whether a copy sent by post was delayed.

(*b*) The same considerations which led to the issue of the orders referred to under part (*a*) preclude me from giving the Honourable Member the information he asks for.

(*c*) The information is not available.

Mr. Gaya Prasad Singh: The District Magistrate of what place intercepted that cable, Sir?

The Honourable Sir Joseph Bhore: Ahmedabad.

Mr. N. M. Joshi: May I ask whether the Government were afraid that there would be an explosion in Great Britain if the cable was allowed to be transmitted?

The Honourable Sir Joseph Bhore: May I point out, Sir, that so far as the Posts and Telegraphs Department was concerned, they merely carried out the instructions issued to them by the District Magistrate under the appropriate section of the law.

Mr. N. M. Joshi: May I ask whether this question is not addressed to the Government of India and not to the Postal Department only? We want a reply from the Government of India.

The Honourable Sir Joseph Bhore: This is a matter, Sir, which concerns the local provincial administration and not the Government of India.

Sardar Sant Singh: May I ask if there is any reason why the information should be withheld from this House since it is required in order to judge whether the District Magistrate exercised his discretion rightly or wrongly?

The Honourable Sir Joseph Bhore: May I point out to my Honourable friend that it would be very difficult for me to give publicity to a message the contents of which were considered objectionable and therefore withheld by the District Magistrate.

Sardar Sant Singh: May I know if the Government of India consider those contents objectionable even now?

The Honourable Sir Joseph Bhore: As Head of the Posts and Telegraphs Department I am not competent, Sir, to express my own opinion in regard to the character of that message.

Diwan Bahadur T. Rangachariar: May I ask whether the Government of India exercise any control in these matters over the District Magistrates?

The Honourable Sir Joseph Bhore: No, Sir. The law is perfectly clear on this point, namely, that the officials of the Postal Department must carry out the instructions issued to them by the District Magistrate.

Sardar Sant Singh: But what objection can the Honourable Member have to supplying this information to the House now?

The Honourable Sir Joseph Bhore: For the same reason that I cannot give publicity to a message the contents of which were considered to be objectionable.

Diwan Bahadur T. Rangachariar: Do I understand the Honourable Member to say that the Government of India have no right to control the actions of District Magistrates?

The Honourable Sir Joseph Bhore: I have already pointed out, Sir, that in this matter the Government of India are not concerned. It is the action of a provincial official acting under the orders of the Provincial Government.

Diwan Bahadur T. Rangachariar: We understand the Government of India have supreme control in these matters. We understand the Government of India have general powers of superintendence, direction and control in these matters.

The Honourable Sir James Crerar: The position, Mr. President, is this, that the Telegraphs Act gives certain powers which can be exercised statutorily by the Local Government. The Local Government, in exercising those powers, are no doubt subject to the general superintendence, direction and control of the Government of India, but the Government of India

naturally, in exercising their powers of superintendence, direction and control, do not take upon themselves to interfere in every case with the detailed application of the powers by the local authorities.

Mr. N. M. Joshi: May I ask whether the Government of India will reconsider their policy of preventing telegrams going to Great Britain, inasmuch as there is absolutely no danger of any explosion taking place in Great Britain. We can understand the plea of a possible explosion as a result of publication in India, but I would like to know why any telegram should be prevented from being published in Great Britain.

The Honourable Sir James Crerar: The Honourable Member's question, I think, is one of general policy as to whether the Government of India should in no case retain their statutory power to intercept messages. If so, my answer is in the negative. I do not consider it proper for Government to divest themselves, in the exceptional circumstances prescribed by the law, of that ultimate authority.

Mr. N. M. Joshi: I wanted to know the object of that policy, Sir.

The Honourable Sir James Crerar: The object of that policy is the 'public interest'.

Mr. K. Ahmed: In view of the fact that the Government of India are in full possession of the contents of this telegram to Mr. Tom Williams, M.P., do Government propose, for the benefit of the House, to explain matters in an easy way, so that the House may be convinced and at the same time, it will not infringe the rule so much, as the Honourable Members on the Treasury Benches are probably apprehending?

The Honourable Sir James Crerar: I do not think that the course somewhat obscurely hinted at by the Honourable Member would be for the benefit either of the House or of the public.

Mr. K. Ahmed: In order that this storm in a tea cup may be removed, there are people who will be quite satisfied, as I might tell the Honourable Member, if the Government follow ways of explaining things in such a way . . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member has been repeatedly reminded, that he can only ask supplementary questions and not make statement.

Mr. K. Ahmed: If you will wait, Sir, I will. That being the case, do Government propose to publish facts for the information of the public? Will it not at the same time serve the purpose of answering supplementary questions by high officials of Government?

Sir Cowasji Jehangir: May I ask the Honourable the Home Member under what authority do the Government of India exercise their powers of direction and control?

The Honourable Sir James Crerar: I will invite the Honourable Member's attention to the prescription of the Act which will be found in the Library.

Sir Cowasji Jehangir: The Government of India Act gives the power to the Government of India of direction and control. My question is under what conditions and when do the Government of India exercise those powers? Do they or do they not interfere with the Provincial Governments very often and frequently?

The Honourable Sir James Crerar: My answer to the Honourable Member's question is that the conditions would depend on the circumstances of the case.

Sardar Sant Singh: Will the Honourable the Home Member be prepared to disclose the contents of the telegram if the galleries are cleared and the Press is sent out?

(No answer was given.)

FOREGOING EXCESS FARES ON THE EAST INDIAN RAILWAY

389. ***Khan Bahadur Haji Wajihuddin:** (*a*) Has the attention of Government been drawn to paragraph 82 of Messrs. Moody and Ward's Report where they have said:

"This attitude is partly due to their (*Accounts* Department) traditions, and upbringings which teach them invariably not to refund or forego a single pie of revenue, however strong a claim may be morally, except under legal compulsion."

(*b*) Will Government please state if the Accounts Department foregoes excess fare and penalty charges or the Chief Commercial Manager, East Indian Railway?

Sir Alan Parsons: (*a*) The remarks quoted by the Honourable Member taken from paragraph 62 (not 82) of the Moody-Ward Committee's Report were made in the course of a discussion as to the authority that should control the ticket-checking staff, East Indian Railway, and has reference only to that point.

(*b*) As the Accounts Department does not control the ticket-checking staff on the East Indian Railway the question of that department foregoing excess fare and penalty charges does not arise, the power resting with the Divisional Superintendents under the control of the Chief Operating Superintendent.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member inform the House whether or not the Government subscribe to the recommendations of the Moody-Ward Report?

Sir Alan Parsons: The recommendations contained in the Moody-Ward Report have been adopted on the East Indian Railway.

Lieut.-Colonel Sir Henry Gidney: Are you prepared to adopt them on any other railways or have they reasons to reject them?

Sir Alan Parsons: We are not certainly prepared to adopt them on other railways without due consideration, for conditions may differ.

Dr. Ziauddin Ahmad: If the recommendations are good they ought to be adopted everywhere and if they are not good, they ought not to be adopted on the East Indian Railway also.

Sir Alan Parsons: I do not agree with the Honourable Member that because a particular system is found to be good on one particular railway it should therefore be adopted on other railways where conditions are different.

VOCATIONAL TRAINING IN THE ARMY.

390. ***Sardar G. N. Mujumdar:** Will Government be pleased to state, in connection with the vocational training in the Army:

(*a*) whether soldiers are sent to the vocational training centres and schools in England; if so, to what institutions and what their annual number is;

(*b*) whether they are sent to any factories, training centres or workshops in England;

(*c*) what the annual budget in detail is regarding vocational training in the Army;

(*d*) whether the soldiers are given leave with pay or are deputed on duty;

(*e*) the fees which are required to be paid for the instruction of each soldier;

(*f*) whether it is a fact that in certain courses soldiers as well as their wives get a chance of learning a vocation which will be useful and helpful to them after the soldiers retire on pension;

(*g*) whether the soldier gets his full pay while he attends the course;

(*h*) whether the soldier gets all the allowances such as messing and kit equipment, military proficiency, educational, etc., while attending the vocational course of instruction;

(*i*) whether the soldier gets his passage both ways from the Government; if so, what the cost is of a return passage;

(*j*) in case the soldier's wife accompanies him to attend the course suitable to her, who pays the passage and fees for her;

(*k*) whether there is any institution in England such as dairy farms, etc., wherein arrangements are made to receive soldiers' wives as well for a vocational course;

(*l*) whether the soldiers take any course in India preliminary to fit themselves up when they go to England for a vocational course;

(*m*) if so, what the centres, firms, factories, workshops and industrial institutions in India are where they go for such preliminary training (extra-regimentally);

(*n*) the figures, for the last ten years, of the soldiers who attended such courses, etc., for vocational training in India, together with their period of service and ranks;

(*o*) whether they were given leave or deputed on duty then;

(*p*) whether they received their pay and allowance too;

(*q*) whether arrangement is made for vocational training for soldiers regimentally; and

(*r*) whether Indian soldiers are given any opportunities to train themselves for a vocation to fit themselves up in their afterlife when they retire on pension?

Mr. G. M. Young: As this question is a very long one, I lay on the table a statement giving the information desired by the Honourable Member.

Statement.

(*a*) and (*b*). Yes. About 500 soldiers due for discharge or transfer to the Reserve are sent annually to vocational training centres at Chisledon, Aldershot and Hounslow.

(*c*) A sum of Rs. 20,620 is being provided in the budget for 1932-33. This provision consists almost entirely of the pay and allowances of the staff maintained at Army Headquarters to deal with the administration of vocational training. As stated in my reply to Mr. A. Das's starred question No. 82 of the current session, the cost of the actual training is borne by the men themselves.

(*d*) They are on duty.

(*e*) Fees are paid by the soldiers. In India, warrant officers and sergeants pay Rs. 2 a week and corporals and privates Rs. 1-8-0 a week. The fees in England vary from 5 shillings to 10 shillings a week, according to the rank of the soldier.

(*f*) and (*k*). Soldiers preparing for independent settlement on their own farms are allowed to take their wives and families to the Chisledon Centre at their own expense. The women and elder children are also given instruction in certain subjects.

(*g*) and (*h*). Yes, Sir.

(*i*) and (*j*). Soldiers are sent for vocational training to England six months before they are due to complete their term of service in India. They and their wives travel home at State expense; but this involves no extra cost to Government, as they would in any case have to be sent home at State expense six months later. Wives of soldiers accompanying their husbands to a vocational training centre pay their own expenses while at the training centre.

(*l*) No, Sir. Soldiers who are given vocational training in India are not given a course in England.

(*m*) Does not arise.

(*n*) Vocational training in India was started in 1924. The following statement shows the number of soldiers trained annually in India and in England. It is not now possible to state their period of service and the ranks they held.

	Trained in the United Kingdom.	Trained in India.
1924	..	350
1925	..	400
1926	..	500
1927	97	723
1928	250	897
1929	450	1,200
1930	500	1,135
1931	500	1,377

(*o*) They were on duty.

(*p*) Yes.

(*q*) Some soldiers are trained in technical units other than their own.

(*r*) No, Sir. It has not yet been found feasible to do so.

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(*p*) Yes.

(*q*) Some soldiers are trained in technical units other than their own.

(*r*) No, Sir. It has not yet been found feasible to do so.

ORDERS FOR WIRELESS APPARATUS FOR RAILWAY CENTRES IN INDIA.

391. *Mr. Nabakumar Sing Dudhoria: (*a*) Will Government be pleased to state whether the Railway Board has recently placed orders abroad for four sets of Marconi short wave apparatus for installation in important railway centres in India providing an alternative when there is interference with the normal lines?

(*b*) If the answer to part (*a*) is in the affirmative, will Government please state:

(i) the date on which the said order was sent out;

(ii) the firm with which the order has been placed;

(iii) the time by which the sets will arrive in this country;

(iv) the time by which the apparatus will be set up and put into operations;

(v) the estimated cost of the four sets;

(vi) the probable cost for setting up the four apparatuses;

(vii) whether the Standing Public Finance Committee was consulted in the matter of purchase of the apparatus; and

(viii) the names of places in the United Kingdom of Great Britain where the railways have set up such apparatus with the same purpose as the Railway Board has in view?

Sir Alan Parsons: (*a*) Yes.

(*b*) (i) 3rd November, 1931.

(ii) The Indian Radio Telegraph Company, Limited, Bombay.

(iii) The sets have already arrived in the country.

(iv) By the end of March, 1932.

(v) Rs. 1,17,040.

(vi) This is not yet known.

(vii) No. The expenditure was not of that magnitude to require a reference to the Standing Finance Committee for Railways.

(viii) Not so far as the Railway Board are aware.

ADVERTISING OF THE *Magh Mela* OF ALLAHABAD.

392. *Mr. Nabakumar Sing Dudhoria: Will Government be pleased to state:

(*a*) whether publicity was given by the East Indian Railway Administration to advertise the *Magh Mela* of Allahabad for the present year; and if so, in what manner;

(*b*) the outlay on such publicity literature;

(*c*) the outlay on other additional arrangements to cope with the *Mela* traffic;

(*d*) whether the publicity attempts have produced the expected results;

(*e*) whether the outlay on publicity and additional arrangements is expected to be recouped; and

(*f*) whether the East Indian Railway Administration was cognisant of the distressing agrarian conditions prevailing in the United Provinces in the present year before they started publicity work and underwent expenses for additional arrangements for the *Magh Mela*?

Sir Alan Parsons: (*a*) to (*f*). I have asked the Agent, East Indian Railway, for the information required by the Honourable Member.

RETRENCHMENT IN INDIAN PUBLICITY OFFICES IN LONDON AND NEW YORK.

393. ***Mr. Nabakumar Sing Dudhoria:** Will Government be pleased to state:

(*a*) whether any sort of retrenchment has been effected in the Indian Railway Publicity Offices located in London and New York; and

(*b*) if the answer is in the affirmative, the particulars of the retrenchment schemes adopted in both or either of those places?

Sir Alan Parsons: (*a*) and (*b*). One of the Branches in London has been closed from the 1st February, 1932. On superior post and two subordinate posts out of three superior posts and five subordinate posts have been abolished from that date. The question of retention or otherwise of another superior post is under consideration.

ABOLITION OF THE X-RAY INSTITUTE AT DEHRA DUN.

394. ***Mr. Nabakumar Sing Dudhoria:** Will Government be pleased to state:-

(*a*) whether the X-Ray Institute at Dehra Dun has been abolished;

(*b*) the reason or reasons for which the said institute was abolished;

(*c*) the reason or reasons for which the institute was set up at Dehra Dun;

(*d*) the total amount that was spent for the purchase of the plant and machinery in the institute;

(*e*) the amount that was spent in setting up the apparatus;

(*f*) the amount incurred in building the institute;

(*g*) the monthly expenditure on the establishment of the institute;

(*h*) whether all the instruments, etc., have been disposed of after the abolition of the institute;

(*i*) if the answer to part (*h*) is in the affirmative, the total amount that the sale has fetched; and

(*j*) the party or parties that have purchased the instruments etc., after the institute was abolished?

Sir Frank Noyce: (*a*) Yes.

(*b*) and (*c*). The Institute was established in 1905 to provide for the systematic study and application of radiography in India, to serve as a

centre of practical instruction and to a limited extent as a clinic for the treatment of patients. It was abolished in 1930 because the position had changed; under the reformed constitution the Central Government have no responsibility for the maintenance of an institution for the purpose of rendering advice and assistance in matters relating to medical administration, which is a provincial transferred subject, or for the treatment of persons from areas under the control of Local Governments.

(*d*) and (*e*) It is regretted that the figures are not readily available.

(*f*) The value of the buildings of the Institute was assessed at Rs. 1,95,934 in 1928, and that of the site at Rs. 45,837.

(*g*) Rs. 3,887 in the year 1929-30, the last year in which the Institute was fully open.

(*h*) and (*i*) Disposal of the stocks at the Institute is still in progress but it is anticipated that it will shortly be completed.

(*j*) The stocks are being disposed of at the best price obtainable to the Military authorities, civil institutions, Universities and private medical practitioners, or by auction.

MANUFACTURE OF GALVANISED CORRUGATED SHEETS BY THE TATA IRON AND STEEL COMPANY.

395. ***Mr. Nabakumar Sing Dudhoria:** Will Government be pleased to state:

(*a*) whether or not an undertaking was given by the Tata Iron and Steel Company, Limited, last year, at the time of the imposition of the duty on galvanised corrugated sheets, to improve and increase their sheet mills during the year;

(*b*) if the answer is in the affirmative, what steps the Tatas have since taken to implement this undertaking;

(*c*) whether they are aware that a foreign company is being introduced for the purpose of manufacturing corrugated sheets at the expense of the Tatas;

(*d*) if the answer to part (*c*) is in the affirmative, are Government in a position to state the detailed terms on which that company is being introduced;

(*e*) if Government have any information as to whether or not the Tatas ascertained that any strictly Indian concern formed with Indian capital was prepared to come to their help in the matter before the foreign company was invited; and

(*f*) whether the Government of India was made duly cognisant of this move on the part of the Tatas?

The Honourable Sir George Rainy: (*a*) No such undertaking was given by the Company.

(*b*) Does not arise.

(*c*) The answer is in the negative.

(*d*) to (*f*). Do not arise.

APPOINTMENT OF SIKHS TO THE UPPER DIVISION IN CERTAIN GOVERNMENT OFFICES.

396. *Sardar Sant Singh: (*a*) Will Government kindly state the number of Upper Division—temporary, officiating and permanent—vacancies which occurred during 1930 and 1931, respectively in the Army, Commerce, Legislative and Legislative Assembly Departments and how many of them were given to (1) departmental men, *e.g.*, by promotion from 2nd Division to Upper Division and how many to (2) outsiders?

(*b*) Will Government please state the number of Muhammadans, Hindus, Sikhs and other communities taken in the respective Departments under the two categories given in part (*a*)?

(*c*) Is it a fact that there is a total absence of the Sikh community in this grade, that the matter has occasionally been brought to the notice of Government, and that no Sikh has so far been given a chance in any of these offices?

(*d*) In how many cases were the Sikhs superseded in each of these offices and on what grounds?

(*e*) Do Government propose to see that the Sikhs are given their due share in the Upper Division of these offices? If not, why not?

The Honourable Sir James Crerar: (*a*) to (*e*). The information asked for is being collected and will be furnished in due course.

SALE OF MEAT IN PESHAWAR.

397. *Sardar Sant Singh: Will Government kindly place on the table a copy of the result of the enquiries and the instructions issued by the Government of India, if any, in regard to unstarred question No. 229 answered on the 23rd February, 1931, regarding sale of meat in Peshawar?

Mr. G. M. Young: I lay on the table a copy of my letter dated the 14th March, 1931, to Khan Bahadur Haji Wajihuddin, which contains the answer to his unstarred question No. 229, dated the 23rd February, 1931.

COPY OF A DEMI-OFFICIAL LETTER FROM THE SECRETARY, ARMY DEPARTMENT, TO KHAN BAHADUR HAJI WAJIHUDDIN, No. 25-Y., DATED THE 14TH MARCH, 1931.

With reference to my reply to your unstarred question No. 229 in the Legislative Assembly on the 23rd February 1931, I give below the information required :—

(1) (*a*) There is no fortified market in the Peshawar Cantonment. The mutton market for which a Muslim contractor pays only Rs. 505 per mensem as rent is separated from the bazar by the width of a road.

(*b*) and (*c*). The Jhatka butchers pay a fee of 4-annas per sheep to the Cantonment Authority for slaughtering in the Cantonment Jhatka slaughter house which is situated in a secluded part of the Cantonment. Before this slaughter house was built sheep were slaughtered in shops in Sadar Bazar. Jhatka meat is being sold at one shop in the Sadar Bazar. It has been sold in the same street for the last 38 years without any complaint from the Muslim community.

(2) Does not arise. Government, however, understand that the Cantonment Board has under consideration a project for the construction of a Cantonment Jhatka shop.

UNSTARRED QUESTIONS AND ANSWERS.

PROMOTIONS IN THE RAILWAY DEPARTMENT.

58. **Mr. T. N. Ramakrishna Reddi:** Will Government be pleased to state if it is a fact that the Railway Board sanctioned the promotion of deserving subordinates in the Railway Department to officers' posts under the Indianisation scheme as published in the *Times of India* issue dated 8th July, 1930, and also in the *Railway Times* issue dated 18th April, 1931?

Sir Alan Parsons: Government have seen a letter headed "Retrenchment Reductions" which was published in the *Railway Times* of the 18th April, 1931. It is presumed that it is to this that the Honourable Member alludes. Appointments to the Lower Gazetted Service are made in accordance with paragraph 11 of the Railway Board's Memorandum No. 2520-E., dated the 24th February, 1930, which was placed before the Central Advisory Council for Railways at their meeting held on the 4th and 5th July, 1930, in which it was stated that the Lower Gazetted Service was intended essentially for specially selected subordinates with no outside recruitment.

PROMOTION OF LOWER SUBORDINATE STAFF IN THE ENGINEERING DEPARTMENT OF THE GREAT INDIAN PENINSULA RAILWAY.

59. **Mr. T. N. Ramakrishna Reddi:** (*a*) Will Government be pleased to state what action has been taken in promoting lower subordinate staff to the upper subordinate or officers' posts in the Engineering Department of the Great Indian Peninsula Railway?

(*b*) Is it a fact that while the other Railways have given effect to the above recommendation in all departments, the Great Indian Peninsula Railway has not given effect to it in the Engineering Department?

(*c*) If the answer to part (*b*) be in the negative, do Government propose to give effect to the Indianisation scheme in the Engineering Department?

Sir Alan Parsons: (*a*) to (*c*). I am not sure what information is actually wanted by the Honourable Member, but promotions to the Superior Service are made by the Government of India by strict selection. Promotions to the upper subordinate ranks of the Great Indian Peninsula Railway are made by the Agent of the Railway who takes into consideration the merit and seniority of employees in the lower grades. Communal considerations do not influence promotions to either the Superior Services or the upper subordinate ranks.

PROMOTION OF INDIANS IN THE BRIDGE DEPARTMENT OF THE GREAT INDIAN PENINSULA RAILWAY.

60. **Mr. T. N. Ramakrishna Reddi:** (*a*) Will Government be pleased to state the various cadres existing in the Bridge Department of the Great Indian Peninsula Railway? And will they be pleased to state how many Anglo-Indians, Hindus, and Muhammadans are employed in each cadre?

(*b*) If it is found that there is a preponderance of appointments held by the Anglo-Indian community, do Government propose to promote deserving Hindus and Muhammadans from the lower subordinate service in the Engineering Department in the general and Bridge Department in particular to the upper subordinate and officers' posts in the Great Indian Peninsula Railway as vacancies arise until proper representation of various communities is established?

Sir Alan Parsons: (*a*) Government regret that they are not prepared to supply figures of communal representation regarding individual offices or classes of establishments.

(*b*) I would invite the Honourable Member's attention to my reply to his question No. 59.

PROMOTION OF INDIANS IN THE BRIDGE DEPARTMENT OF THE GREAT INDIAN PENINSULA RAILWAY.

61. Mr. T. N. Ramakrishna Reddi: (*a*) Will Government be pleased to state if there are any men in the lower subordinate service in the Bridge Department of the Great Indian Peninsula Railway with good technical qualifications?

(*b*) If the answer be in the affirmative, do Government propose to promote them to the upper subordinate or officers' grade at the earliest possible opportunity?

Sir Alan Parsons: (*a*) Government are not aware of the qualifications of individuals in this Department.

(*b*) I would invite the Honourable Member's attention to my reply to his question No. 59.

PROMOTION OF INDIANS IN THE BRIDGE DEPARTMENT OF THE GREAT INDIAN PENINSULA RAILWAY.

62. Mr. T. N. Ramakrishna Reddi: (*a*) Will Government be pleased to state if there is any Indian (Hindu, Muhammadan, Parsee or Sikh) apart from Anglo-Indians, appointed and now working as Bridge Inspector in the Bridge Department of the Great Indian Peninsula Railway?

(*b*) If the answer be in the negative, will Government be pleased to state why they are excluded?

(*c*) Are there any rules which disqualify persons belonging to those communities from holding that post?

Sir Alan Parsons: (*a*) and (*b*). Government have no information.

(*c*) No.

TRAINING OF BRIDGE INSPECTORS ON THE GREAT INDIAN PENINSULA RAILWAY.

63. Mr. T. N. Ramakrishna Reddi: Is it a fact that the persons to be appointed as Bridge Inspectors in the Great Indian Peninsula Railway have to undergo an apprenticeship course and only Anglo-Indians were permitted to undergo that course and other community members have not so far been permitted to undergo that course? If so, do Government propose to throw open to other communities the privilege of undergoing this apprenticeship course to enable them to be appointed as Bridge Inspectors?

Sir Alan Parsons: No communal discrimination is permitted in recruiting apprentices to the Engineering Department of the Great Indian Peninsula Railway.

PROMOTION OF ASSISTANT STATION MASTERS IN THE DELHI DIVISION OF THE NORTH WESTERN RAILWAY.

64. Mr. S. C. Mitra: Is it a fact that several temporary Assistant Station Masters, since confirmed in the Delhi Division of the North Western Railway, have represented their case for due promotion and admissible seniority since July, 1931, through the Divisional Superintendent, Delhi? If so, what is the result of their representations?

Sir Alan Parsons: Government have not received any such representation. The matter is one within the competence of the Agent to deal with.

PROMOTION OF ASSISTANT STATION MASTERS IN THE DELHI DIVISION OF THE NORTH WESTERN RAILWAY.

65. Mr. S. C. Mitra: Is it a fact that no Indian Assistant Station Master is given any post over grade IV, in spite of their satisfactory acting in such posts at big junctions, and are Government aware that such posts are always given to the most junior Anglo-Indian guards? Is it correct that there is no opening for Indian Assistant Station Masters at all?

Sir Alan Parsons: With your permission, Sir, I propose to reply to questions Nos. 65, 66 and 67 together. I have called for information from the Agent, North Western Railway, and will communicate with the Honourable Member on its receipt.

PAY OF ANGLO-INDIAN AND INDIAN ASSISTANT STATION MASTERS AT DELHI AND GHAZIABAD.

†**66. Mr. S. C. Mitra:** Are Government aware that at Delhi Main and Ghaziabad when Anglo-Indians were working as Assistant Station Masters they were paid Rs. 260 to 280, and when Indians are put to work as such they are given only Rs. 95? Is not the responsibility in both cases the same?

PAY OF THE ASSISTANT STATION MASTER AT SIMLA.

†**67. Mr. S. C. Mitra:** Are Government aware that the grade of Assistant Station Master at a most important and big station like Simla is only Rs. 45—5—60, while clerks under him are given Rs. 200 or above? Do Government propose to look into the case?

†For answer to this question, *see* answer to question No. 65.

PROMOTION OF GUARDS ON THE GREAT INDIAN PENINSULA RAILWAY.

68. **Mr. S. C. Mitra:** Are Government aware that in the Jubbalpur Division of the Great Indian Peninsula Railway a special lowest branch time-scale has been introduced for goods guards, working on main lines, with the result that most junior guards in Jhansi and other Divisions have superseded senior and qualified guards? Is it a fact that these men have been representing for the last five years for promotion and transfer? Are Government prepared to look into the case of special qualified guards at least?

Sir Alan Parsons: Government have no information. The matter is within the competence of the Agent, Great Indian Peninsula Railway, to decide, and I am bringing it to his notice.

MEDICAL EXAMINATION OF RAILWAY EMPLOYEES ON THE NORTH WESTERN RAILWAY.

69. **Mr. S. C. Mitra:** Are Government aware that the North Western Railway has introduced a new system of medical examination of Railway employees by the letter "C", with the result that hundreds of men are unfitted after long services and those not concerned in train-working are examined and thus turned out?

Sir Alan Parsons: The test referred to is in accordance with the vision tests prescribed under the new Regulations, lately issued by Government, for the medical examination of railway employees and the proportion of men who now fail under this test is not greater than formerly.

PROVISION FOR RAILWAY EMPLOYEES FAILING IN THE MEDICAL EXAMINATION ON THE NORTH WESTERN RAILWAY.

70. **Mr. S. C. Mitra:** Is it a fact that those Railway employees on the North Western Railway who failed in the medical examination in class A but were fit for other classes are turned out without being given any chance in any other capacity? Are Government prepared to see that such staff is provided with some job on the same pay or that certain clerical posts are reserved for such failures?

Sir Alan Parsons: The regulations on State-managed Railways already provide that where an employee fails due to defective eyesight or any other infirmity, to conform to the standard of physical fitness required by the holder of his post every effort shall be made to find another suitable appointment for him.

LACK OF WATER TAPS IN RAILWAY QUARTERS AT PAHARGANJ.

71. **Mr. S. C. Mitra:** Are Government aware that Railway staff residing in the big Paharganj railway quarters are suffering great trouble on account of there being no water taps inside the quarters? Is it a fact that water taps were sanctioned about two years ago but never introduced? Is it correct that some of the quarters used by the engineering staff had such taps while others had not? Is it a fact that thousands of rupees are spent in building new quarters, while a few hundred rupees are refused for this purpose?

Sir Alan Parsons: 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.

APPOINTMENT OF ASSISTANT TRAIN CONTROLLERS ON THE NORTH WESTERN RAILWAY.

72. **Mr. S. C. Mitra:** (*a*) Will Government kindly refer to starred questions Nos. 1292, 1361 and 1362 of the special Delhi Session of the Legislative Assembly in November, 1931 and say whether it is a fact that the Assistant Train Controllers on the North Western Railway were made permanent a couple of years after their posts were created and then the confirmation was cancelled on certain representations or allegations made in the Agent's office and a plea of rectification of an error was given?

(*b*) Is there any such parallel in Government of India offices? Will Government please give specific instances, if any?

(*c*) Are Government aware of the acute state of uncertainty of these men and do they intend to consider their claims early? If not, why not?

(*d*) Have the Assistant Controllers been re-confirmed by now? If not, what is the cause of a delay of so many months?

Sir Alan Parsons: (*a*) to (*d*). Certain confirmations as Assistant Train Controllers were made from 1st January, 1931, without the personal approval of the Agent, North Western Railway. When the matter eventually came to his notice, the Agent was satisfied that these confirmations had been made erroneously and that the only satisfactory manner of rectifying the position which had arisen was to countermand the confirmations. This was within the competence of the Agent and Government do not propose to intervene or to search for parallels in Government offices.

APPOINTMENTS IN THE INCOME-TAX DEPARTMENT OF BIHAR AND ORISSA.

73. **Mr. M. Maswood Ahmad:** (*a*) Will Government please state the number of (i) Inspector-accountants, and (ii) clerks recently sanctioned by them for the Income-tax Department of Bihar and Orissa as a result of the lowering of the taxable limit?

(*b*) Is it a fact that the Commissioner of Income-tax, Bihar and Orissa, empowered his Assistant Commissioners to make the clerical appointments? If so, will Government kindly state whether these appointments were advertised and in which papers?

(*c*) What was the total number of applicants with the communities to which they belonged separately for (i) inspector-accountants, and (ii) clerks?

(*d*) Will Government kindly state the number of Muslims appointed as (i) inspector-accountants and (ii) clerks by each of the Assistant Commissioners who were empowered to do so out of the total number allotted to each of them?

(*e*) Will Government please say whether these appointments received the approval of the Income-tax Commissioner?

(*f*) Have Government satisfied themselves that the Muslims have been taken according to the percentage laid down by the Government of India to prevent the preponderance of any one community in the public services? If not, why not?

The Honourable Sir George Schuster: The information has been asked for and when obtained a complete statement will be laid on the table.

Mr. Muhammad Muazzam Sahib Bahadur (North Madras: Muhammadan Urban): Sir, I do not wish to move the Resolution* that stands in my name.

RESOLUTION *RE* STABILISATION OF EXCHANGE AND PRICES.

Mr. President: The next Resolution stands in the name of Lieutenant Nawab Muhammad Ibrahim Ali Khan, who has authorised Dr. Ziauddin Ahmad to move it on his behalf. Dr. Ziauddin Ahmad.

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

"This Assembly recommends to the Governor General in Council that the Government of India should not expend the resources of the country in their attempt to stabilise exchange, but concentrate their efforts to stabilise prices."

Sir, my object in moving this Resolution is, firstly, to emphasise that it is the duty of the Government of India as currency authority to realise their responsibility and to discharge their duty in stabilising the prices of this country. A few months ago the Finance Member as a representative of the currency authority was invited by the Indian Chamber of Commerce to examine the causes which led to the fall of prices in jute, and redress the grievances of the people of Bengal. But he shoved his responsibility on to the Government of Bengal, and I think his attitude, as a representative of the currency authority, was not correct. My second object is to emphasise the importance of apportioning the responsibility of maintaining the price level between the Provincial Governments and the currency authority. Sir, at one time it was admitted that the prosperity of a country depends upon a favourable balance of trade, and the country which exported more and imported less had the balance of trade in its favour and was more prosperous. But the miseries of Central Europe after the war which had an overwhelming balance of trade in their favour exploded the theory. The accounts of the visible balance of trade are always made up by the accounts of the invisible balance of trade; the favourable balance of visible trade is equalised by unfavourable balance of invisible trade and the two taken together, like the debit and credit accounts in any system of accountancy, balance the accounts. It is now universally admitted that the balance of visible trade, though important is not the only factor in determining the prosperity of a country.

*"With a view to restoring the normal morale of the public services in this country, this Assembly recommends to the Governor General in Council that at the end of the next 2 years or at such later period when the present national crisis has passed off, Government do repay to Government servants the amount without interest of their respective accumulated cuts in salaries either in one payment or in annual or biennial instalments as the Governor General in Council may deem expedient."

I come to the next false theory which is still dominating the currency policy of our country, I mean the attempt to maintain the stability of exchange, at all costs and at the sacrifice of all other interests. The stability of exchange is the effect and not the cause of the stability of prices. On account of the limited time of half an hour allowed to the proposer of a Resolution, I do not like to take you through the early history of the recommendations of the Fowler Committee of 1898, and the Chamberlain Committee of 1913, but I would like to draw your attention straight to the current problems. We had a stable exchange before the war. The war conditions unsettled the currency here as in every other country. The first serious mistake we made was that we tried to stabilise currency at 2 shillings per rupee, and the loss of gold assets incurred on account of the 2 shillings parity would work out to something like 69 crores. All the countries in the world stabilised their currency at a lower level. France stabilised it at one-fifth of the pre-war value, Italy at a little less than one-third of the pre-war value, whereas we in India went further and stabilised it at 50 per cent. higher than its value before the war. It was formerly 1*s.* 4*d.* and we stabilised it at 2 shillings per rupee. We lost thereby 69·36 crores, which was really a gift from our taxpayers to the speculators in exchange. If we look into the figures of exchange from 1920 to 1925, we will see that the exchange never attained 2*s.* compared with the gold ratio which the Government of India intended it to be. It went on to as much as 1*s.* 1*d.* compared with the gold standard:

Year.	Exchange in terms of Sterling.	Exchange in terms of Gold.
	s. d.	*s. d.*
1920	2 7	1 10
1921	1 3⅛	1 1
1922	1 3⅛	1 2⅛
1923	1 4⅛	1 3⅛
1924	1 5	1 3⅛
1925	1 5⅛	1 5⅛

This is the year when England resumed the gold Standard.

From these figures it is quite clear that had the Government stabilised the exchange in 1923 at 1*s.* 4*d.* India would have been saved an enormous sum of money which we had to sacrifice at the altar of this exchange. Here I would like to read a passage from the Indian Chamber of Commerce Calcutta, Annual Report for 1930 (p. 197):

"The loss of gold assets between April, 1926 and November, 1930, is thus Rs. 33·94 crores. To this, however, must be added the value of the sterling assets created by the proceeds of silver sold from the reserve in the last three years. The sale proceeds under this head are more than Rs. 10 crores. The total loss of gold and gold assets to the Paper Currency Reserve between 1st April, 1926, and now, therefore, comes to say, Rs. 44 crores. The value of gold assets sacrificed on the altar of 2*s.* was Rs. 78·02 crores; this figure, however, is based on the valuation of the gold assets

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at 1s. 4d. Revaluing on the basis of 1s. 6d. the loss of gold assets incurred on account of 2s. parity would work out to Rs. 69·36 crores. Summing up the entire position, the Government of India are responsible for frittering away Rs. 113·30 crores of gold assets in the two disastrous ventures they took upon themselves against the unanimous public opinion of this country."

Sir Hugh Cocke (Bombay: European): Will the Honourable Member kindly state whose ideas these are?

Dr. Ziauddin Ahmad: I am reading it from the Annual Report of the Indian Chamber of Commerce, Calcutta.

Sir Hugh Cocke: It is in the first person singular. I think it was a personal speech by somebody.

Dr. Ziauddin Ahmad: I request the Honourable Member to read page 197 of this book. (Handed over the book.) The steps taken by the Government to maintain the exchange at 1s. 6d. *i.e.*, 12½ per cent. higher than its pre-war value were (1) the contraction of money, (2) raising the rate of interest to a high level, (3) raising loans at high rates of interest, (4) the sale of Reverse Council Bills, and all these four measures contributed to lower the price levels. I am going to take them in turn. The first step which the Government took in order to keep up the exchange at 1s. 6d. was that they had to contract the currency. In March, 1926 we had 193 crores of currency, in December, 1929, 179 crores, on 21st September, 1931, it was 146 crores.

Time.	Currency in crores of rupees.
31st March, 1926	193
December, 1929	179
21st September, 1931	146
31st January, 1931	179·16
Now about	182

Sir Hugh Cocke: May I interrupt the Honourable Member so that the House may not be misled? The quotations were from the speech of Mr. D. P. Khaitan, President of the Indian Chamber of Commerce, at a General Meeting held on the 5th March, 1930.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): The speech of the President was accepted by the Chamber as a whole.

Dr. Ziauddin Ahmad: So long as the facts are correct, it is immaterial whose speech it was. Consider what has been said and not who said it. Now on account of the flight of gold, in January, 1931, it was 179·16 crores, and now it will be about 182 crores. The present expansion of the currency I do not seriously object to. It is the natural outcome of the flight of gold. But what I would like to have an assurance from the Honourable the Finance Member about is how long this inflation will go on and how far does he propose to go on inflating the money? I would like to hear something definite from him now or on the occasion of the Budget debate. We see the flight of gold is still continuing and is

likely to continue for some time, until Government put an embargo on gold. People on account of distress are selling their gold and the Government of India as currency authority giving the people notes printed on paper and silver. (The rupee is a note printed on silver as it does not contain silver even to half its value.)

The second point that I wish to refer to is about the bank rate of exchange, which is seven per cent. at present. This high rate is unjustified and I give only two reasons for it. The first is that the Imperial Bank rate should always be lower than the market rate, and if the Imperial Bank rate is higher than the market rate, then it really means the Government have artificially raised it to achieve certain objects. I notice that in 1929, the Imperial Bank rate was 7 per cent. and the Delhi market rate was 6. In April, 1929 the Imperial Bank rate was 8 and the Delhi rate was 6¾. In January, 1930 the Imperial Bank rate was 7 and the Delhi rate was 5¼. Next compare our rates of interest with the rates in other countries, and I take the figures from the *Berliner Zeitung*, dated 17th November, 1931. I notice that in Holland the Bank rate is 3, in Belgium, 2½, in London, 6, in New York, 3½ and in France, 2½. I should like to know how far the Bank rate of 7 is justified in view of the facts that I have just mentioned. It is really done to maintain the exchange at its artificial value at 1s. 6d. and at the sacrifice of Commerce and trade.

The third measure which the Government had to adopt was the raising of loans during the last five years.

Amount of loans in 1926.

In crores of Rupees.

Rupee loans	539·81
Sterling loans at 1s. 6d.	456·50
Total	996·36

In 1931.

Rupee loans	654·95
Sterling	517·1
Total	1,171·96

We have raised our loan from 996·36 crores to 1,171·96 crores, that is an increase of 17 per cent., taking the rupee and the sterling loans together. The last loans were raised at unjustifiable rate of interest at 6½ per cent. The result of this measure is that we have now to pay more interest on the additional loans, which is collected by increased taxation. The extraordinary Finance Bill of November, 1931, is the direct result of the wrong monetary policy of the Government. It also resulted in frittering away cash balances which are now substantially reduced. The cash bullion and security has diminished from 51·96 crores to 35·18 crores during the same period. Time does not permit me to give the figures of treasury bills and reverse bills. During the year we borrowed 159 crores in treasury bills and paid 139·68 crores and thus increased our debt by about 20 crores. These are the facts which I have

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laid before you and which are the outcomes of the exchange policy of the Government of India. I draw your attention to an entirely different side of the question, that is I want to prove that these four measures which the Government have adopted to maintain stability of exchange are just the causes which have unstabilised the prices in this country, in fact we ought to pay our attention to the stabilisation of prices; exchange would look after itself. Sir, attention has been drawn from time to time by the economists about leaving off the puzzle of exchange and concentrating attention on the prices. I quoted last time a Resolution passed by the Brussels International Conference which says that:

"Attempts to limit fluctuations in exhcange by imposing artificial control on exchange operations are futile and mischievous."

I maintain that the fall in prices is not so much due to over-production as it is due to the monetary policy of our country. In proof of my statement I would like to give two quotations. One is from Gustav Cassell, the well-known economist. He says:

"Contraction of credit brought about by the central banks of Europe under the pressure of America was the cause in the fall of prices."

The second quotation is from Sir Henry Strakosh who has proved by his graphical statistics that:

"The fall in prices began with the flow of gold to America and France."

He ridicules the idea that over-production can be a self-sufficient cause of depression, as in the absence of saturation all the increased output can well change hands.

Sir, I now wish to prove that the action taken by the Government of India in trying to maintain the stability of exchange has really led to the fall in prices. The first was the fixing of the ratio at a higher level. My Honourable friend, the Finance Member, will not probably agree with my statement and make the elusive remark that I am a Mathematician and not an economist. I will therefore quote from McMillan's Report which everybody will accept as an authority on the subject. The report, is written by a committee consisting of the leading economists of Great Britain. This Report clearly says:

"It is probable that the difficulty of our national problem was much increased by the relative over-valuation of the pound sterling and under-valuation of many other currencies."

If in England it is admitted that the miseries were due to the over-valuation of the pound then it is applied *mutatis mutandis* to India where we actually evaluated our rupee at a premium of 50 per cent. Sir, as I said, the stability of exchange should be the result and not the cause of the stability of prices. The attempt to maintain the stability of exchange is really to give the reins of your horse in the hands of persons who have no sympathy with you. I suppose any person who rides a horse would always like to keep the reins in his own hands and not to give the reins to persons who have no sympathy with him. King Nadir Shah refused to ride an elephant, because the reins were not in his hand. And I say that to make an effort to stabilise prices is just to give the reins of your price level to persons who have no sympathy for you. In this connection I will give two quotations from very reliable

authorities. One is from McMillan's Report referred to above and whose authority cannot be questioned. The Report says in paragraph 220, page 97:

"The Bank rate policy guided and governed by the tendency of gold to move, is a means of maintaining the stability of the exchanges rather than stability of business. It is a means of keeping us in step with the rest of the world; of keeping us, not at a steady pace, but at the same pace as others. Indeed so far from preserving a stability of prices, profits and employment, the maintenance of stable exchanges has the effect of transmitting to our credit system any serious disturbances, of a cyclical character or otherwise, which may be affecting the rest of the world."

This is also supported by the evidence of Sir Basil Blackett who clearly says:

"Once exchange is fixed, of the three factors which have to be considered, international prices, internal prices and exchange, one will be completely out of your control, namely, international prices. The intermediate link, that is, exchange will be fixed, and therefore the remaining factor, internal prices, will be at the mercy of outside movements and it will not be in your power to control the situation."

That is why I say that to fix the exchange is really to hand over the reins of price level in the hands of persons who have no sympathy with us.

Now, Sir, in proof of my proposition that we ought to concentrate our attention on prices, I will give the findings of McMillan's Report, which is really the greatest authority on the subject, and they have conclusively said that we ought to concentrate our attention on the stabilisation of prices. They say in paragraphs 275 and 276:

"Thus our objective should be, so far as lies within the power of this country, to influence the international price level, first of all to raise prices a long way above the present level and then to maintain them at the level thus reached with such stability as can be managed.

We recommend that this objective be accepted as the guiding aim of the monetary policy of this country. The acceptance of such an objective will represent in itself a great and notable change. For before the War scarcely any one considered that the price level could or ought to be the care and preoccupation, far less a main objective of policy, on the part of the Bank of England or any other Central Bank."

In India until the Central Bank is established, the Government as the currency authority take the place of the Bank of England and the Central Bank. If it is admitted that the primary responsibility of the Bank of England is to attempt to maintain the price level, then in India, until the Central Bank is established, it ought to be the duty of the Government of India as the currency authority to take all measures to maintain stability of prices. But the steps which the Government are taking are just the reverse. I am conscious of all the reservations and the difficulties that arise which have been elaborately dealt with by Mr. Keynes in the second volume of his book on "Money" page 351, to which for want of time I cannot refer in detail.

So far, Sir, about the general theory. I will now mention the specific instances of commodity after commodity the prices of which have fallen on account of inertness and wrong action of the Government of India. Our Central Government as the currency authority did not discharge their duties. Had the time been at my disposal, I would

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have discussed in greater detail the question of wheat, hides and skins, of jute, of cotton and various other commodities. But I may possibly have time to go into details on some other occasion.

First I will take up wheat. I do not like to take much time over it as we already discussed it the other day, but I should like just to give certain figures which I could not give on that day as the discussion came at a time against my expectations. The pre-war average of production in India was about 9½ million tons, and we exported 1½ million tons every year, which left 8 million tons for our home consumption. From 1924 to 1928, the imports and exports were so regulated that we had 8 million tons left for our home consumption, but when we come to the figures of 1929 onwards, we find that the balance is upset, and that was the time when the Government of India ought to have intervened. The Government know that in 1929, we produced about 10¼ million tons of wheat and in 1930 about 9. The Import and Export was as follows: -

Year.	In tons.		
	Import.	Export.	Export to United Kingdom.
1928-29	562,053	168,890	76,418
1929-30	357,158	63,636	6,964
1930-31	232,154	243,414	175,283
Till December, 1931	111,297	52,126	16,775

Position was improved last year on account of large export to United Kingdom. The Wheat Import Act ought to have passed in 1929 and the premium of 12½ per cent. due to exchange ought to have been removed. Of course the Government know that it is easy to maintain prices, but it is not easy to raise the prices in a short time. It requires a long interval, and the present low level will take sometime to rise to its former level. I think the Government have not discharged their duty as currency authority in order to stabilise the price of wheat when they limited the operation of the Wheat Import Bill to one year only. Had Government taken correct and prompt action in 1929, our present miseries would have been minimised.

The next commodity which I should like to take in detail is the question of hides and skins, of which I have already spoken on previous occasions. This particular trade brings in to India an income of between 40 and 50 crores of rupees. Before I give any figures, I would like to make one point quite clear at the outset. It is contained in the letter dated 26th July, 1928, addressed by the Hide and Skin Association to the Finance Member that:

"The Association asserts that the larger percentage of exports consists of inferior grade of hides from animals which have died a natural death, while a greater portion of the hides of animals which have been slaughtered in slaughter houses are utilised by Indian tanners."

So that the greater quantity of hides and skins exported really comes from animals which have died their natural death, and we should assume that the number of animals which are dying a natural death in India is certainly increasing and not diminishing. I assume that it is increasing with the increase of population.

Now, we find that the export of cow hides since the pre-war days has been reduced by 58 per cent. that is, if it was 100 before the war, it is now only 42. Buffalo hides similarly are reduced by 75 per cent.: the export is only 25 per cent. Sir Charles Innes, considering the bad state into which the trade had fallen, proposed a reduction of the duty to 5 per cent. on the occasion of the Finance Bill on the 20th March, 1923. After the adoption of his recommendations, the export began to improve. But as soon as the exchange was fixed at 18*d.* reaction again followed. The decrease of custom duty was compensated by the premium of 12½ per cent. due to exchange. The diminution in export was not compensated by the quantity tanned in India. I have got before me the figures (see the *Review of the Trade of India*, 1930-31, pages 106-107) which will show that the amount of decrease in the export and the amount of increase in the tanned leather, and I find that the value in the case of exported hides has diminished from 11·69 crores to 5·40 crores. The value of the tanned leather during the same period has increased from 4·22 to 6·27 crores. So the loss in the export of hides is about 6 crores and the gain in the tanned is about 2 crores, that is, there is a definite loss of about 4 crores of rupees on account of this export policy of the Government of India. Considering the quantity that export of raw hide is diminished from 80 to 41 thousand tons a tanned hide increased from 15 to 17. Allowing an increase of 10 per cent. in population, the raw hide now buried in ground is about 45 thousand tons (1 ton =27¼ maunds).

Sir, export duty can be justified only on three grounds: the first is that the exporting country controls the market, second, that the duty falls on the buyer and not on the producer, and third, protection to the home industry. I want to prove that none of these conditions is satisfied in the case of hides and skins. The hides market is controlled by the importing country. India is not the only exporting country: hides are exported by South America, Africa and China. The very fact that exports have fallen by about 65 per cent. shows that India does not control the market. Taking the next point, the export duty falls on the producers primarily, and this is very clear from the letter written by the Hides Association to the Finance Member in its letter dated the 15th April, 1931. There they say that in the case of the hides industry this takes the form of complete strangulation of the source of income of many thousands of the lowest classes of:

"These village-dwellers men who are engaged in the collection of hides from fallen animals and the preparation of such hides for sale in the various markets throughout India, are immediately and particularly unfairly affected by a drop in the exports to foreign countries. The position today is that the prices which shippers can afford to pay for their hides are so low that, by the time the material has been railed to the ports and the profit of the *Beparis* been set aside, there remains for the village flayer a figure so small that it is no longer worth his while to collect the hides and cart them to market. Recent experiences have shown that dead animals have been left without flaying near various villages with the consequence that in the rainy season, they have decayed and have spread disease. They were left unflayed as the price obtainable by the village *Chamar* was only four or eight annas per piece and he did not consider this to be sufficient for the trouble involved. All *Chamars* have been affected by the export duty, some being ruined and if the export duty is still further increased, more of these poor people will be ruined."

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The third point is about the protection of the home industry. I have clearly stated that though there has no doubt been some improvement in the tanning industry, because during the last fifteen years export has improved by about 2 crores, still the loss to the exporters has been about four times as great as the gain by protection. The improvement of the trade will lead to the improvement of cattle breeding. I would like to quote from the Hides and Skins Cess Committee's Report:

"The value to India of this industry taken as a whole is about 40 to 50 crores. It provides employment to large numbers of men and is a factor in the economic well-being of millions of the depressed classes. There is scope for work in order to reduce the national waste. Improvement effected will not only benefit those directly engaged in the industry as a whole but will also react favourably on the peasantry of India. Our proposals have this objective in view, and are, in our opinion, so designed as to achieve it, as far as it is practicable."

The improvement of this trade, Sir, is not only the economic problem of maintenance of the price level, but it is also intimately connected with agricultural research. I wonder that the Imperial Agricultural Research Association has not raised its voice about it.

I have referred to the position of one industry, and I ask, is it or is it not the duty of the Government to come to the relief of the people and stabilise prices in this and other cases? Had they taken timely action, as recommended by the Hides Cess Committee, the present depression would have been avoided and India would not have lost about 8 crores on this one particular commodity. It is really reacting very badly on large numbers of people belonging to the depressed classes who collect the hides from fallen animals.

I have not got time in the half hour at my disposal to discuss in greater detail the other commodities, much as I would have liked to discuss them—particularly the jute industry where Government could have helped but did not.

An Honourable Member: Go on.

Dr. Ziauddin Ahmad: My time is up. I shall take some other opportunity to discuss the question of other commodities which the Government could have helped by maintaining prices, but the Government as currency authority did not do it. My last appeal to the Finance Member therefore is that he should not waste the resources of the country in his attempt to stabilise exchange, but that he should concentrate his attention on stabilising prices; once prices are stabilised, the exchange is practically certain to be stabilised, because what is really exchange? It is nothing but the ratio of the price of an article which a person can buy in any other country and import into his own, to the price prevailing in his own country. The other ratios which we have been having are really very artificial due to temporary phenomena and if prices are stabilised these difficulties will be solved automatically. With these words I move the Resolution.

The Honourable Sir George Schuster (Finance Member): Sir, I was expecting to have a little more enlightenment on this question before the time came for me to reply, and I am surprised that this subject, which is one of great general interest, has not drawn further speakers or speeches

from the House. I confess that I find it difficult in a short speech to do justice to what has fallen from my Honourable friend. He started talking about currency, but as far as I could follow him, the latter part of his speech dealt rather with the policy of the Commerce Department in this country and questions affecting the hide and skin industry, and I think that his complaint fell in that respect rather on my Honourable colleague the Commerce Member who unfortunately was absent. My Honourable friend cut his speech short at the end, and I must do him the credit of supposing that the best part of what he had to tell us today has remained unsaid. I trust that my friend will not press this motion to a division. I would put it to him that a subject of this kind is not one which can be determined by votes, and I think it is clear from the lack of volunteers to join in this very difficult debate, that the House itself would hardly be desirous of recording publicly an opinion on this subject today.

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In certain respects, if this Resolution is to be taken as recommending general principles, as endorsing abstract theory, as indicating the objectives, the ideal objectives for which all currency authorities should work, I could find myself in agreement with it; but if it is intended as a criticism of the particular policy that we are pursuing today, I must of course oppose it. I think, Sir, there will be no dissentient voice, either in this House or anywhere in the world, to the general proposition that the world as a whole has failed miserably to deal with the currency problems which have arisen since the war, and that the world as a whole is suffering terribly today from the fact that the course of prices has been subjected to most violent fluctuations resulting from the attempt to maintain the currencies of the world on a gold basis. It is patent that the old system has very largely broken down. We have seen, to put it in one way, an enormous appreciation of the value of gold in terms of commodities, we have seen, if you put it in the other way, a sensational, a catastrophic fall in the prices of commodities in terms of gold, and the whole world is suffering from that today.

But having admitted that general principle and having joined with my friend in deploring the disaster which has come upon the world owing to the undue fall in prices, I find it difficult to follow him if I have correctly understood what his practical proposals are. Trying if I can to continue my effort to find a measure of agreement with him, I would go on to say that I think all authorities agree,—I certainly would agree with him—that if a system of currency based on gold is to work in the world, then there must be a proper utilisation of the gold resources of the world. If the gold that is available is to be made the basis of currency, if gold is to be the monetary basis, then it must be distributed in such a way that the money available for expenditure in the world for carrying on business expands with the growing production of the world. We know for example that the population of the world is increasing at the rate of about one per cent. per annum. We know also if we follow the course of production in the world that the productive capacity of the world is increasing steadily at a rate somewhere between 3 and 4 per cent.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): But the deaths in India are more than in any other country.

The Honourable Sir George Schuster: I say we know from statistics that the productive capacity of the world is increasing at the rate of

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something between 3 and 4 per cent. per annum. Now, it is obvious that if that production, if the goods that are produced are to find consumers, the standard of living of the population of the world must improve from year to year so as to make up that difference between one per cent. in the increase of population and 3 to 4 per cent. in the production of goods, and that can only be done if the distribution of wealth in the world is so worked as to enable the money required to buy the increased proportion of goods to come into the hands of those who want those goods. I entirely agree with my friend that there is not in the world today in any true sense over production. That is obvious in a world a large proportion of whose population is living at a standard of life below anything which any of us could regard as satisfactory. The world has not got available for division among its population today too much wheat or too many clothes or too many boots and shoes. They could all find users if we could only arrange our monetary machinery and our methods for the distribution of wealth in such a way, that under the system which is now employed people could have put into their hands the means for making the necessary purchases. But that cannot be arrived at if the monetary system of the world is not working properly and—if gold is to be the basis of currency—unless the gold resources are utilised to the best advantage. Although I myself think that the present state of affairs is due to a multiplicity of causes—and I do not agree with those who put it all down to one cause—yet I would go so far as to agree with my friend in saying that the most important single controllable factor on which we can put our fingers which has contributed to the present misery of the world lies in the monetary policy. My friend quoted at one stage of his most interesting speech from remarks made by a very great friend of mine—Sir Henry Strakosch—and I would recommend to anybody who is interested in this question that he should buy a copy of the Economist of about three or four weeks ago in which there was a special article on the present crisis by Sir Henry Strakosch. That contains most illuminating charts, and he is able to show there by his charts that the present crisis began just at the time when for various reasons the stocks of gold in the world began to leave all the other countries and accumulate in the hands of France and the United States. It is not for me to go into the reasons which led to that accumulation, but one of the reasons certainly, so far as the United States of America were concerned, was that in 1929 they made a distinct change in their policy of granting foreign loans, and as they ceased to grant credits to foreign nations payments which were due to them had to be made in terms of gold. I think that that particular article by Sir Henry Strakosch does justify the conclusion that monetary policy has had a great deal to do with the present crisis, and I think I am not over-stating the case if I say, as I have already said, that it has been the largest single controllable factor in the situation.

Now, if one admits all that, as I think one must, what bearing has it on the policy of the Government of India? The point that I want to put to the House is this. We in this matter are only one very small unit in a very large combination of forces. I quite agree that what happens in India may have some bearing on what happens in the rest of the world. For example, I think that political disturbances in India which might retard a normal recovery in India might be of sufficient importance to react on the rest of the world to an appreciable extent, just as disturbances

in China undoubtedly also are a contributory cause among the whole of the forces that are operating today. But when my Honourable friend suggests that we could have by our currency policy kept India immune from all the evils from which the rest of the world is suffering today—then I do maintain that he is living under an illusion if he really believes that. No single country can by its own policy control world conditions. If, for example, India is unable to find a satisfactory market for her jute, her cotton, her oilseeds, groundnuts and hides and skins,—and if India is to be prosperous she must sell the surplus of production of those goods abroad —if she is unable to find a satisfactory market for those owing to economic depression in the rest of the world, there is nothing that she can do by her own currency policy to overcome those unfortunate results. What a country can do by her own currency policy is to alter the relative position of the various classes of her population. If for example, we were to adopt a currency policy which would mean a reduction of the value of the rupee to one-third of its present value, we should entirely alter the distribution of the annual accretion of wealth in the country as between the various classes in the country. It would mean that everybody who is entitled to fixed money payments would get in real value so much less. Every body who is entitled to fixed interests on his investments, every one who is entitled to fixed payments measured in terms of rupees by way of rent, everybody who is entitled to a fixed daily wage measured in rupees—to take only three classes of the population—would get so much less in real value, whereas those who after meeting their fixed payments had to dispose of goods which had been produced would find that the balance which they had left over for themselves in terms of rupees would be proportionately increased. To that extent a country can by its currency policy affect the situation of its own people, but it cannot increase the total wealth of the country by measures of that kind, and that I think it is a point which my Honourable friend should appreciate,—the limitation of what any single country can do by its own currency policy. In saying this, I leave out of account the effect that our policy might have on the whole of the conditions in the rest of the world, and I admit we might have a small effect on the rest of the world if our policy was such as to increase the demand for certain articles in India. But that effect would hardly be appreciable. That, Sir, is the first point that I want to make—the limitation of anything that we ourselves can do in the face of a world crisis like the present one by our own currency policy, and I do want to put it to the House that the major part of what India is suffering from now is the result of world conditions, and nothing to do with our own policy.

The second point—and I want to confine myself to these two points—that I want to put to the House is this,—supposing you do decide that your policy is to be one of stabilising prices rather than maintaining a stable value of your unit of currency in relation to gold or in relation to the currencies of the rest of the world,—supposing that is your policy, into whose hands are you going to put the control of that policy? Are you satisfied to leave a power of that kind in the hands of any single group? My Honourable friend has called our attention to the very unsatisfactory position of a man who finds himself riding a horse with somebody else taking hold of the reins. I quite agree with him it is a most unsatisfactory position, particularly if the horse is rather an unmanageable one and the man who holds the reins is of a wild and irresponsible character. But I put it to him that if he wants this country to have a system of

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currency, a managed system of currency, a currency not based on any sort of basis of gold or anything of a fixed and stable nature, but managed entirely according to the brains and ideas of a small group who would have complete power in their hands, I suggest then that he would find himself just in that position which he deplores, and he could hardly put himself and the country into a more dangerous position than that policy would imply. If you are going to attempt a thing of that kind, in the first place, you must have the most reliable statistics, you must be able to follow your index prices for all commodities in which the country is interested. We have nothing of that kind, we have no system of that kind which would enable the currency authority to operate on those lines in India today with any sort of precision and accuracy. Further, you must have not only knowledge of what is going on, but you must have some sort of prophetic vision of the future; otherwise you will be liable to make mistakes, for these things change very quickly. And I would put it to my Honourable friend that what he is really arguing for is a system which is based upon nothing except the ingenuity of a small group of people into whose hands he will place the whole responsibility for management; he is ready to adopt an experiment which I doubt very much if any large body of people in India would follow him in endorsing. That, Sir, is the point that has got to be faced. Either you have to regulate the attempt to maintain your currency values in relation to some fixed standard or you cut right adrift and leave the regulation entirely dependent on the brains and ability of a small group of men. If my Honourable friend is interested in past history, and I have made no attempt to follow him into his examination of past history today, I would ask him to read what was said by all the representatives of Indian commercial bodies in earlier days on that very point, on the suggestion that India should have a managed currency. I think he will find that representatives of the Indian Chambers of Commerce said that that was the very worst thing which could possibly happen.

Sir Cowasji Jehangir (Bombay City: Non-Muhamadan Urban): What has England got today?

The Honourable Sir George Schuster: For the moment I was referring to past history and I think that many individuals who make proposals today are inclined to forget the very solid opinion which disclosed itself in India when those earlier suggestions were made.

Now, Sir, the only other thing that I wish to call the attention of the House to is that for the present we are living in very difficult times. As the whole House is aware we had to face a very revolutionary change in September and it is a fact that now our currency is not based on gold but is being regulated in a parity with sterling and in that sense my Honourable friend is quite entitled to say that we are at present ourselves committed to a policy which is based on a managed currency,—seeing that the position of sterling is dependent on the policy of the currency authorities in England. Therefore he can quite well say that we are already facing some of those risks to which I have drawn attention. But I would ask him and the House, if they can take that view, to confine themselves strictly to a practical appreciation of the situation. Let them consider whether in fact what we are now doing is meeting the interests of India. I think that

any impartial observer who considers the dangers and difficulties with which we were faced last September and then reviews how we have been able to get through the months that have passed since then would at least go so far as to say 'Well, you have not done too badly—at least, you might have done very much worse!' And in these difficult times if one can carry on without disaster and with a general improvement in the position of the country I think one may congratulate oneself that one is not entirely off the right road and one may be justified in hesitating to accept the advice of those who say 'Turn from the path on which you are now proceeding with fairly satisfactory progress and make an experiment with some short cut through the jungle'. I for one would certainly not like to follow my Honourable friend, the Mover through the jungle which I think his policy indicates. I prefer to keep along the path on which we are now going, a path of which I confess I cannot see the final end, but a path along which I can see the steps for the next few months sufficiently clearly to satisfy myself that we are moving in the right direction. That, Sir, is the position that I will put to the House—that our policy at present is on broad lines meeting the needs and interests of India, that it is too early yet to say what the final policy is going to be, that we have in spite of a continued fall in gold prices since September been able to see a steady improvement in the internal rupee prices of most of the commodities on which India relies, an improvement which varies according to different commodities, which is particularly striking in regard to cotton where there has been an improvement of something like 40 to 45 per cent. and which extends over the whole range of commodities in which the Indian producer is interested. We have seen that improvement of prices without any corresponding great rise in the cost of living or without any difficulties which might have been expected to be brought about by a sudden change in the currency value of the country. It has been accompanied by a marked improvement in our own position for meeting our foreign obligations and a marked improvement in the general financial position of Government. That, Sir, I submit to the House is a sufficient justification for us in saying that the path on which we are now treading is a path which is adapted to the interests of India. Indeed I do not think that anything that my Honourable friend said was aimed directly as an accusation of our present policy. He contented himself rather with references to the evils which would come on the country from the Government policy in the past. I think, Sir, I have taken sufficient time of the House in dealing with this matter, and I hope I have expressed sufficient agreement with the general principles which my Honourable friend laid down as to persuade him that it would be unwise to press his present Resolution to a division.

Dr. Ziauddin Ahmad: In view of the fact that the Honourable the Finance Member is in general agreement with the policy mentioned in the Resolution and also in view of the fact that no person has taken part in the debate, I certainly would not press for a division, but I would like to point out one or two things in connection with this subject. Sir, I entirely agree with the Finance Member, and I myself emphasised it, that monetary problems cannot always solve the question of prices. The difficulty arises when the monetary system fails to solve satisfactorily the questions which arise on account of non-monetary phenomena. We are now faced with a new situation that gold is gradually finding its way to France and America, and no country has been able to solve this very difficult financial situation. I said clearly that by the exchange problem we cannot altogether solve the

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world conditions, but at the same time it is a weapon which we can use at least partially in coping with our difficulties that have arisen on account of the general depression all over the world. The Honourable the Finance Member spoke of the monetary unit being fixed on account of the desire of the commercial bodies. Now, this reminds me of a story. A person said that he had dreamt a dream. Half of it was true and half of it was not true. He said he saw in a dream that somebody had given him a slap and also a rupee. When he got up he saw that the rupee was not there, but the marks of the slap were there. The same is the case here. The Indian commercial community desired to stabilise the monetary unit of India but they desired to have it stabilised at the pre-war value, but they did not desire it to be stabilised at 12½ per cent. higher than the value it had before the war. They desired to have a stabilised rupee at pre-war parity. They got one but not the other.

Now, I do not want to discuss the question of the flight of gold because we shall have an opportunity of discussing it in detail in connection with the Budget, but certainly I find that this flight of gold, though giving no doubt a temporary great relief, at a time of very great emergency, to the Government of India, is certainly not a solution of the real problem. Though the Government of India may be richer for the time being, but India as a whole, the people of India have become the poorer on account of this flight of gold from India to foreign countries. I say again that this flight of gold will not permanently solve the monetary problem of the world because what would happen is that the gold would ultimately flow into the Bank of France or of the Reserve Bank of America. We are sending gold to England, and it may be used in paying off our debts. England may have temporary relief; we may have temporary benefit thereby, but ultimately the gold will be buried in France and America. Sir, our present policy about the flight of gold is really a gift of gold to France and America. No doubt some relief is there; the Government of India do gain slightly thereby, but it is not a permanent satisfactory solution of the problem. I think, Sir, it is a mistake on the part of the Government of India to adopt methods which, for the sake of temporary relief, permanently impoverish the country and yet do not definitely solve the permanent problem either of India or of England. Sir, my point in bringing forward this Resolution was that Government, as being the custodian of the interests of the people and as currency authority, have got certain obligations towards the people of this country. One of their obligations is to maintain the prices at a certain level, but this is a duty which they have not satisfactorily discharged during the last three years. I can give innumerable illustrations. There is the example of wheat before us. The Bill which was laid before us for the first time in 1931 ought to have been moved three years ago, because in 1929 the Government of India knew full well the state of affairs of the stocks in India and in the world through the periodical returns of the League of Nations, and the Wheat Export Bill ought to have been passed in 1929; and I have a serious complaint that even when they produced the Bill in 1931, they went out of their way and made exemptions for six months for which there is no parallel (as far as I know) in the proceedings of this Assembly since it came into existence.

Now the other thing which they ought to have done and which every Government would have done, had it been a Government responsible to the Legislature, is that they would have reduced the freight from the

places where wheat is produced to the places where it is consumed or exported from. For example, all other countries have done the same, but what we find here is that India is exporting wheat from one part, that is Karachi, and importing wheat from another part, that is Calcutta, which wheat finds its way to Bihar and even to the United Provinces. This is a policy which ought to be stopped; and if the Government of India had taken timely action three years ago, probably our troubles would have been minimised to a certain extent. This is my point, then, that the Government of India ought to take timely action to stabilise prices and not concentrate their energies and their thoughts only on the stabilization of exchange. In view of this fact which I have just stated, I beg to ask for leave to withdraw the Resolution.

The Resolution was, by leave of the Assembly, withdrawn.

RESOLUTION *RE* APPOINTMENT OF A COMMITTEE TO HEAR GRIEVANCES OF RETRENCHED OFFICERS.

Pandit Satyendra Nath Sen. (Presidency Division: Non-Muhammadan Rural): Sir, I beg to move the Resolution which stands in my name and which runs as follows:

"This Assembly recommends to the Governor General in Council that a Committee of the Central Legislature be appointed to hear the grievances of the retrenched officers in the Central Government under the recent retrenchment schemes with a view to redress injustices and inequities."

Sir, mine is a noble Resolution and not a controversial one, at least so far as the principle is concerned, and I think I need not make a lengthy speech on the subject. As a result of the worldwide economic depression and also as a result of their colossal extravagance, the Government of India as well as all the Provincial Governments have now got to such a position that they have been compelled to curtail their expenses in all possible ways. The retrenchment of officers is one of these. We are concerned here with the Central Government only. As everyone knows, the Central Government is a huge department, and the retrenchments there must have assumed gigantic proportions. Premature retirement and discharge of officers have been the means of retrenchment, and it is only natural that in dealing with the innumerable cases there have been some cases of injustice and inequity. Sir, on the basis of the various recommendations made by the various Retrenchment Sub-Committees, the Government of India have prepared elaborate rules for retrenchment. Among these there is a pious rule which runs thus:

"The selection of individuals for discharge should be entrusted to Selection Boards specially constituted in each Department or office."

Sir, I am afraid this is on paper only, and as a matter of fact the departmental head is all in all in the matter. At least he has been given ample power for exercising his discretion. But the departmental head is after all a human being not free from attachment and aversion, and it is no wonder that cases of oversight or blunder or even favouritism must have occurred in certain cases. Sir, different principles have been followed in different offices side by side. One of the modes of retrenchment is the discharge of selected officers with less than ten years' service. In some

[Pandit Satyendra Nath Sen.]

offices the departmental head has begun from the bottom of the list and in some offices he has begun from the top. Sir, retrenchment is a very unpopular measure naturally, and the unpopularity has been greatly increased by these injustices and inequities. Sir, the departmental heads may play with these matters, but the retrenched officers know to what position they are pushed by these measures. It is only the wearer who knows where the shoe pinches. We have received lists of grievances from various departments and various individuals. The grievances are manifold. In some cases the charge is that retrenchment is going on communal lines and in others the charge is that there has been differential treatment amongst the members of the various communities. Sir, I am not a communalist and I am one of those Hindus who hold that a starving European is as fit an object of compassion as a starving Hindu or a Muhammadan. Sir, I have no mind to mention individual names in my speech but I will only refer to some cases. At the very outset I should like to remind the Honourable the Finance Member of a case which occurred in the Military Finance Department and which I, in company with my Honourable friend, Mr. S. C. Mitra, brought to his notice. The Honourable Member with his characteristic goodness gave us a patient hearing and with his characteristic suavity and sincerity has promised to go through the papers personally. There are several other cases which have been brought to our notice, and I wish to refer to only a few of them. An officer in the Army Department who was recently promoted to the special grade on account of his efficiency has suddenly become inefficient and has been served with a notice to quit. The next case is that of an officer in the Foreign and Political Department who has put in 35 years of service and has been retained, whereas others with lesser periods of service have been retrenched. Then, a clerk in the office of the Engineer-in-Chief under the Army Department was served with a notice after a meritorious service of 17 years. On receipt of this notice, he fell in and ultimately he died, probably of that shock. Then, again, an officer in A. O., I. S. D., who had put in 10 years' service has been served with a notice whereas others who have been in service for much lesser periods have been retained. These are the vagaries and the irregularities that are being perpetrated in the name of retrenchment. With these experiences and with these cases before us we think that it is only right and proper that their grievances should be heard with proper consideration.

Sir, the right of appeal at least once is an established principle followed by the British Government. It was only the other day that a Resolution was moved by this side of the House for the establishment of a Supreme Court in India as an additional court of appeal. It was very grateful on the part of the Government that that Resolution was not opposed by them. When other people are given chances of appeal twice or thrice it is only reasonable that these unfortunate people should be given at least one chance. I therefore propose that a Committee be formed to hear the grievances of the retrenched officers. With these few words I move my Resolution.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Resolution moved:

"This Assembly recommends to the Governor General in Council that a Committee of the Central Legislature be appointed to hear the grievances of the retrenched officers in the Central Government under the recent retrenchment schemes with a view to redress injustices and inequities."

To that notice an amendment* has been received from the Honourable Member Mr. Bhuput Sing. This amendment widens the scope of the resolution and is therefore out of order.

Mr. Bhuput Sing (Bihar and Orissa: Landholders): May I ask, Sir, if I can delete those portions?

Mr. President: If the widening of the scope is eliminated, then the remainder is practically what the Resolution is. If the Honourable Member will let me have on paper the form of the amendment he wishes to move, I will consider its relevancy.

(Mr. Bhuput Sing then handed to the President his revised amendment.)

The Honourable Member wishes to move the amendment with the only alteration that, instead of the Governor General in Council appointing the Committee, he wishes to provide that the Committee should consist of two-thirds non-official Members to be elected from amongst the non-official Members of the Central Legislature, and one-third officials to be nominated by the Government of India. An amendment in that form is in order and I call upon the Honourable Member to move it.

Mr. Bhuput Sing: Sir, I beg to move:

"That for the original the following should be substituted:

'This Assembly recommends to the Governor General in Council to take steps for the appointment of a Committee consisting of two-thirds non-officials to be elected from amongst the non-official Members of the Central Legislature and one-third officials to be nominated by the Government of India to hear the grievances of the retrenched officers in the Central Government under the retrenchment schemes with a view to redress injustices and inequities'."

Sir, the Mover of the original Resolution has asked for a Committee to be appointed for redressing the injustices and inequities of the retrenched men. But I have got my own misgivings about the Committee if its appointment is left in the hands of the Government. So I move this amendment. The Legislature is an elected body and every important statutory committee of the House is elected, and I do not see any reason why the proposed committee cannot be an elected one. Further, as Government are a party to the retrenchment, naturally they should also have their share of the representation in such a committee. I would therefore suggest by way of amplification that the committee proposed by my friend should be an elected one, of which two-thirds are to be elected from amongst the elected Members of the Central Legislature and one-third may be nominated by Government. Sir, it is well known by now as to how the retrenchment recommended by my friends is being given effect to. The Retrenchment Committee was constituted by the Government themselves and it was presided over by no less a person than the Leader of the Independent Party. He was specially fitted to the occasion having

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

'This Assembly recommends to the Governor General in Council to take steps for the appointment of a Committee consisting of two-third non-officials to be elected from amongst the non-official members of the Central Legislature and one-third officials to be nominated by the Government of India to examine how far the recommendations of the Central Retrenchment Advisory Committee and its sub-committees have been given effect to and to hear the grievances of the retrenched officers in the Central Government under the retrenchment schemes with a view to redress injustices and inequities'."

[Mr. Bhuput Sing.]

had the experience of the executive administration as well as for having a judicial temperament. Wherever the Retrenchment Committee recommended the abolition of the post held by Europeans, these posts became so very essential for the administration of the country that the Treasury Benches could not give effect to such recommendations. Nay, in certain cases they went further and created some sinecure posts to keep these retrenched European officers who were once brought into this country under a contract basis even after the expiry of their present contracts. Sir, by way of illustration I may cite the case of two officers by the name of Messrs. Lane and Watt who were brought to India under a contract for five years for the purpose of erecting mooring masts and other necessary works in connection with the landing of the once famous air ship "R. 101" which accidentally was destroyed in the course of its first voyage to India on the coast of France. Since then the scheme for running airships between India and England has been abandoned. But in spite of the contract period of these two men being over, and in spite of the decision of the Government to abandon the running of the State Air Service in India for the time being owing to financial stringency, these two officers are being retained for a further period under renewed contracts in the name of retrenchment and economy. It is not one solitary example of its kind. There are hundreds of cases like this where European Officers are being retained and in lieu, Indian subordinates are being retrenched and sacrificed. By way of further illustration, we may take the recommendation of the Public Works Retrenchment Sub-Committee where they recommended the abolition of the post of the Superintending Engineer and the post of a highly paid newly created post of a Personal Assistant to the Chief Engineer, New Delhi, but in spite of the definite recommendations of the Committee, we find that these two posts are being retained whereas we hear the cases of hundreds of day labourers, carpenters, jamadars and other subordinates and menials are being sacrificed in the name of economy. Sir, may I ask in all humility whether this sort of retrenchment was envisaged in the recommendations of the retrenchment Sub-Committee? Then, Sir, there are cases where men having 25 to 30 years' service and who have earned full pension, are being retained and youngmen with family encumbrances, having service of only two to five years or even ten years at their back are being sacrificed at the altars of economy. All such cases will surely come to light if the proposed committee is appointed, which will be able to scrutinise such cases with fairness as to whether any injustice and unfair treatment has been meted out to these unfortunate axed men.

Sir, it will not be out of place to cite the cases of the retrenched men in the Railway Accounts Offices and the Audit Office of the Indian Stores Department, where men with two to ten years service are being retrenched by retaining men who have put in 25 to 30 years service and have earned full pension. There are innumerable other cases which have been brought to my notice, but which I am not in a position to go through in detail within the short time at my disposal. The more I hear of such cases the more I get convinced that a committee is essential to investigate into these cases of hardship, as otherwise these unfortunate men will have no other means to have their grievances redressed from the administrators of this country. In this connection I think I may mention that the present foreign rulers have so much deteriorated as to forget the even-handed justice their forefathers used to administer in this country a few

decades ago. I would remind once more the Treasury Benches that the injustices that are being meted out either to the masses in the name of law and order or to their own servants in the name of economy are the main causes for increasing the apathy of the whole of India against the present system of administration. I would go further and I will emphatically say that these are the reasons why political upheaval in the country is directed to end this system of foreign bureaucratic administration, as my countrymen have become hopeless of mending it. In conclusion I may add that the appointment of the proposed committee will go a great way in allaying the present discontent and distrust amongst the Government servants who come from the intelligentsia and the middle classes and who form the back bone of the State of every country, be it independent or dependent. Sir, with these words I commend my amendment to the House for support.

Mr. President: Amendment proposed:

"That for the original Resolution the following be substituted:

'This Assembly recommends to the Governor General in Council to take steps for the appointment of a Committee consisting of two-third non-officials to be elected from amongst the non-official Members of the Central Legislature and one-third officials to be nominated by the Government of India to hear the grievances of the retrenched officers in the Central Government under the retrenchment schemes with a view to redress injustices and inequities'."

Mr. N. R. Gunjal (Bombay Central Division: Non-Muhammadan Rural): *Sir, I support the amendment proposed by my Honourable friend, Mr. Bhuput Sing, to the Resolution moved by my Honourable friend, Pandit Satyendra Nath Sen. The Honourable Mr. Bhuput Sing has explained in his speech the importance of his amendment. I hope the Honourable Pandit Satyendra Nath Sen will accept it. It is very necessary that Government should consider sympathetically the grievances of the retrenched persons.

Sardar Sant Singh (West Punjab: Sikh): I rise to support the amendment proposed by my Honourable friend, Mr. Bhuput Sing. The Mover has made out a strong case for enquiry, and I fully agree with the reasons given. Besides these, I venture to draw the attention of the House to serious infringements of the principles of retrenchment laid down by the high authorities resulting in inequities. I have received many complaints from the members of my community in this respect, particularly from those who were serving in the Railway Department. The Railway Board laid down definite principles for protecting the rights of minority communities when carrying out retrenchment. These principles have not been followed by those who are responsible for carrying out the policy of the Railway Board. We find that most of such officials, especially in the Punjab, have interpreted the expression "minority community" to mean the Muhammadan community alone. While, it is a matter of common knowledge that the Muhammadan community forms a majority in the tract covered by the North Western Railway, the most important minority community in the Punjab is the community to which I have the honour to belong. I have found that when retrenchments have been carried out, the interests of my community have been entirely overlooked. Further on we find that a gentleman from the Muhammadan community has been entrusted with the duty of looking after the interests of the Minorities. Unfortunately for us this official has interpreted the expression "minority com-

*Translation of the speech delivered in Hindi.

[Sardar Sant Singh.]

munity" as meaning his own co-religionists. Here on the floor of this House the Honourable Members occupying the Treasury Benches have given assurances several times that the Sikhs are regarded as a minority community in the whole of India. The Sikh interests have thus been sacrificed at the altar of the whims and idiosyncrasies of particular officials. The grievances are so numerous as to call forth a scrutiny of the acts of the subordinate officials by an impartial committee wherein the members of each community are represented. Therefore I take this opportunity of ventilating the grievances of my community and of asking for the appointment of such a committee as proposed by Mr. Bhuput Sing. With these remarks, I support the amendment.

Rai Bahadur Lala Brij Kishore (Lucknow Division: Non-Muhammadan Rural): Sir, I should like to speak a few words on the Resolution moved by my Honourable friend, Mr. Sen. The Resolution in my personal opinion, if it gets the full support of the House and is passed, will surely produce a good result both for the Government and the retrenched staff of the Government of India. Due to financial difficulties, the Government have been rather compelled to launch a general campaign of retrenchment to effect possible economies in their expenditure, and they have tried their best to follow the method of retrenchment chalked out by the various Retrenchment Committees. Though the Government with a great care and caution have applied their own judgment while axing their own men, yet nobody can deny the fact that it may be quite possible that the application of the method might have in some cases proved erroneous, as a result of which some persons might have been badly hit. Instances may not be uncommon that those who should not have been at all retrenched have in practice come under this terrible axe. Many have been retrenched in the prime of their service and some in the middle part, while on the other hand many old hands, who have almost earned their full pensions, are retained in their respective posts and their retention is justified under the plea of technicality, that efficiency of work will suffer if old hands go. Today or tomorrow, Sir, the present old hands will surely make room for the men who occupy at present their next rank of service. I am afraid to say whether at that time the efficiency in the Government work will suffer or not perhaps change of time will at that time be a healing balm to cure suddenly the wound of inefficiency.

1 P.M.

As a precautionary measure to avoid further criticism the Government may take up a forward policy and appoint a committee consisting of the Members from the Central Legislature in order to revise the methods of retrenchment effected by the Government. The duty of the committee should be to record genuine cases of grievances only, if possible, by taking circumstantial evidence bearing on those cases, and suggest to Government their kind and sympathetic consideration of the same.

In conclusion I may be allowed to say that the consent of Government to form committees of this nature will therefore save the Government from the scandals and criticisms in the Press and platform and safeguard the interests of the unfortunate retrenched staff of the Government who have spent the best part of their energy in serving the Government with hearts full of loyalty and co-operation.

With these words, Sir, I support the Resolution moved by my Honourable friend and I earnestly hope that it will receive a good response from the benign hearts of all the Honourable Members of this House.

The Honourable Sir George Schuster (Finance Member): Sir, we on these benches have a great deal of sympathy with some of the views expressed by those who have spoken on this Resolution, but I am afraid that we must oppose the Resolution in its present form and also the amendment. The ground on which we must base our opposition is this, that on broad grounds of principle the selection of officials for retrenchment is essentially a matter for the executive. If the Legislature tries to interfere in details of that kind, I would put it to Honourable Members opposite that both now and in the future they may find it an extremely embarassing precedent. After all it is the heads of the departments concerned who are responsible in matters of this kind, and I would put it to the House that it is impossible for the Legislature to interfere in details of administration. I would also inform those who have spoken on this Resolution that all these cases have received the most careful consideration. The general practice has been to select the personnel through properly constituted selection boards. Now, when an unpleasant course of this kind has got to be carried out, which we all admit inflicts very great hardship on individuals, it must happen that certain individuals feel that they are aggrieved by the result; and I have no doubt that those who have spoken on this Resolution have spoken with full sincerity and they are convinced that those officials who have approached them have got very hard cases. I am also quite prepared to concede that in many instances their cases are very hard; but what I would put to my Honourable friends is that they have probably only heard one side of the question and that they are not aware of all the balancing considerations which have led the department concerned to make the particular selection that they have done. The Honourable the Mover of the Resolution referred to one particular case and informed the House that he had approached me personally on the matter. That is a very good illustration of the point which I have been making. The official concerned, who approached my Honourable friend together with one or two Members of this House, undoubtedly had a hard case. I should have been only too glad if I could have done anything to meet the views that were put forward by those friends of his in the Assembly who came to see me. But on a careful review of the whole position, when one had to consider who would have had to be selected for discharge if that particular individual had not been selected, I was myself convinced that the right choice had been made and, much as I regretted the result, I had to come to the conclusion that any alternative result would have been worse both as regards justice to the individuals concerned and also as regards the efficiency of the department. My Honourable friend I am sure will give me credit for sincerity in this matter, just as I give him credit for sincerity in putting forward the case. We cannot get away from it. In carrying out the policy of retrenchment, we must create hardship, and the only question is which selection will create the least hardship and which selection will make most for the efficiency of the department.

Now, Sir, although we must take up the stand-point which I have taken, that it would be inappropriate at this stage that any outside committee should be appointed to review all these cases, we all of us—

[Sir George Schuster.]

and I speak for all my colleagues and all heads of departments of the Government of India in this matter—we all of us are prepared to examine cases if our attention is called to special grievances. If any of my Honourable friends opposite comes to me with a case, I shall certainly see that it is carefully examined, and I am sure that all my colleagues will do the same thing. We are just as anxious as anybody in this House to see that this very unpleasant task should be carried out with the minimum of injustice; but if every case of alleged grievance is to be made an occasion for an outside inquiry, I do put it to my Honourable friends who have spoken on behalf of this Resolution that they will achieve no really satisfactory object but they will put an infinity of labour on officials who at present are in these days of retrenchment exceptionally hardworked, and in the long run the public interest will suffer from the precedent created.

Sir, on these broad grounds we must oppose the Resolution.

Pandit Satyendra Nath Sen: Sir, I have not much to add to what I have already said. I accept the amendment moved by my Honourable friend, Mr. Bhuput Sing, *viz.*, that on the Committee there should be some members appointed by the Government of India. I am very glad to hear from the Finance Member that he has got every sympathy with this Resolution. But, I am sorry that his sympathy is not deep enough. We have been told that we hear only one side of the case, but I am afraid it is more true in their case than it is in our case, because they also hear the reports of their departmental heads only: the officers retrenched are not allowed any interview and everything is done behind their backs. It has also been suggested that if cases are brought to their notice, they will see that no injustice is done; but we shall not be here for long; and it is not possible that we can bring each and every case to their notice; and if no committee is formed nobody will approach us with their prayer and the purpose may not be served . . . .

An Honourable Member: Why?

Pandit Satyendra Nath Sen: If there is a committee, then everybody will approach us; otherwise that will not be the case. So I hope that the Honourable Member will yet reconsider his decision and accept the amendment.

Mr. President: The question is:

"That for the original Resolution the following be substituted:

'This Assembly recommends to the Governor General in Council to take steps for the appointment of a Committee consisting of two-third non-officials to be elected from amongst the non-official Members of the Central Legislature and one-third officials to be nominated by the Government of India to hear the grievances of the retrenched officers in the Central Government under the retrenchment schemes with a view to redress injustices and inequities'."

The motion was negatived.

The Assembly then adjourned for Lunch till Twenty Five Minutes to Three of the Clock.

The Assembly re-assembled after Lunch at Twenty Five Minutes to Three of the Clock, Mr. President in the Chair.

THE BAMBOO PAPER INDUSTRY (PROTECTION) BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Sir George Rainy (Member for Commerce and Railways): Sir, I lay on the table the Report of the Select Committee appointed to consider the Bill further to amend the law relating to the fostering and development of the Bamboo Paper Industry in British India.

Mr. President: With reference to the next Resolution† standing in the name of Lala Hari Raj Swarup, I should like to point out that legislation has been passed to extend the operation of the Wheat Import Duty Act to the year 1932-33. The only point in the Resolution which remains is in regard to its extension to the year 1933-34. The Chair wishes to know whether the Honourable Member desires to move the Resolution by amending it in some form which will restrict it to the further extension desired by him.

Lala Hari Raj Swarup (United Provinces: Landholders): Sir, as the operation of the Bill has already been extended for one year, I trust that the Government will extend it for another year if circumstances demand it. Therefore, I do not think that any useful purpose will be served by my moving the Resolution.

Mr. President: You don't wish to move it?

Lala Hari Raj Swarup: No, Sir.

Mr. President: The next Resolution stands in the name of Kunwar Hajee Ismail Ali Khan. I have received intimation to the effect that Dr. Ziauddin Ahmad is authorised to move it.

(Dr. Ziauddin Ahmad was not in his seat.)

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): Sir, there is no quorum.

(The Secretary then rang the bell and several Honourable Members as well as Dr. Ziauddin Ahmad came in.)

Mr. President: There is a quorum now, and I call upon Dr. Ziauddin Ahmad to move Resolution No. 5.

RESOLUTION *RE* THE APPOINTMENT OF A COMMITTEE ON EDUCATION.

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

"That this Assembly recommends to the Governor General in Council to appoint in consultation with the Provinces a Committee to suggest suitable modifications in the existing system of education in India in regard to policy, administration, general plan of studies and examinations and the most economic method of spending public funds for education."

†"This Assembly recommends to the Governor General in Council to undertake necessary legislation so as to extend the operation of the Wheat Import Duty Act to the years 1932-33 and 1933-34."

[Dr. Ziauddin Ahmad.]

Sir, at the outset I must confess that I did not know that this Resolution would come up for discussion today, and much less at this hour, and I did not come prepared for the discussion, nor have I brought with me any books of reference from which I would very much have liked to quote.

Mr. B. Das (Orissa Division: Non-Muhammadan): You are an authority on the subject of education.

Dr. Ziauddin Ahmad: Sir, we all know that education is a subject which has been engaging the attention of a large number of persons. Everybody is dissatisfied with the existing system of education in India. I have not come across any person, may he be a parent, may he be a student or may he be a legislator or a public officer, who has got a good word to say in favour of the present system of education. Sir, recently a Committee was appointed by the Simon Commission to consider the system of education in this country. That Committee produced a very good document in which they pointed out the defects in the existing system, but unfortunately they made no constructive suggestions, and we all thought that the Simon Commission, on the basis of that Report, would write a chapter in the second volume and make some definite suggestions about improvements in the educational system in this country. I shall give one example as an illustration of what I mean. The Hartog Committee definitely said that most of the students who are now reading in the existing schools and colleges ought to have been in institutions of some other type, but they never pointed out—of what type those institutions ought to be and how they should be brought into existence. Naturally after reading the report we expected that the Simon Commission would review that Report, would make some definite and constructive suggestions, but our disappointment was very great, and at least I was sadly disappointed, when I found that there was not a single chapter in the Simon Report dealing with education relating to the Hartog Committee which gave beyond expectation a remarkable correct picture of the true state of affairs. Ever since we adopted the English system of education, there has never been a committee which reviewed the subject of education as a whole from A to Z and coordinated the entire system. The first Commission of importance was really the Hunter Commission of 1882. They reviewed the primary and secondary education; they made certain recommendations on the basis of which the whole Indian policy is shaped. They laid down the policy for secondary education and said that it is not the business of Government to spend its resources on secondary education, but they said that in every district we should have a model school and the Government should encourage, but now I should say discourage, education by means of grants and inspections. Now, this policy has been followed for a long time. Much water has flowed under the bridge during the interval. In 1882 the policy of England was that secondary education should be managed by private enterprise and that it ought to be left to private resources. This was the policy in England, but the policy of France and Germany was the other way. In France not only did the state take the responsibility for secondary education, but they had a monopoly. They made a law that no private institutions should be opened by any private body. This rule existed for a long time till the monopoly was cancelled by the second Republic in 1850. In Germany from the very beginning the state took the entire responsibility of providing and maintaining all the institutions of every grade. After the War England changed her policy and the state is assuming more and more the responsibility for secondary education. But the policy recommended by the Hunter Commission on the model of England's policy then, is still being followed very rigorously. Therefore this is one of the points into which there should be a thorough enquiry, that is, whether Government should undertake the entire responsibility for secondary education. Government may bring forward the plea of cost. They may say that it will be an expensive course. I know that it will be expensive, but Government have got no funds of its own and all the money comes from our own pockets. Therefore it matters little whether we contribute our money to the managers of the schools or contribute it direct to the Government. The present policy requires thorough revision and should be brought into line with that pursued in the Continent, and which is now being adopted also in England. One very great advantage of reversing the present policy of secondary education would be the solution of communal intricacies. It will be impossible for us to remove communal disaffection unless we get rid of the secondary education policy of the Government. Let me give a definite illustration. Suppose any community wishes to establish a school of its own. The managers will have to give a big dose of communalism to the persons from whom they collect monies, otherwise it will be impossible to collect any money for the proposed institution. The communal spirit is created, and if we allowed it to grow in our educational institutions, it would be very difficult to eradicate it in general economic and political problems. If these communal organisations are encouraged then every community will demand a separate system of education and education will become an *imperium in imperio*, and there will be a Government inside the Government, this can only be avoided by the State assuming the entire responsibility of maintaining secondary schools and institutions of other types. The Committee will have to look into the question whether the time has not yet arrived when the Government should reverse their time-honoured policy enunciated by the Hunter Commission and adopt the policy which is now being pursued in all the civilised countries outside India.

The Committee will have to go into the question of primary education. At present we talk of compulsory education, but some people obstruct on the ground of expense. I pointed out on the floor of this House on 17th March, 1931, that the estimate of 20 crores expenditure per annum made by the Hartog Committee is very much exaggerated. I pointed out and gave my figures to show that 9 crores will suffice, 2 crores for compulsory education in the case of boys and 7 crores in the case of girls. There is one very important thing to which sufficient attention has not been paid, and that is, what should be the subject matter of instruction, and what should be the machinery of administration. The other day there was a Bill in the Bengal Council about imposing a special tax for primary education. Some Members definitely opposed it, but they did not do so on the ground that they were against primary education, but they opposed it on the ground that its administration by the Education Department would not lead them to the desired goal. Therefore they wanted a special committee, a special organisation for the expenditure of the public funds on primary education. People are always willing to contribute for education, but they want to be assured that the money will be spent in the right direction. They are very much afraid that if money is given to the Director of Public Instruction, who is an autocratic officer, it will be spent

[Dr. Ziauddin Ahmad.]

upon inspections, on buildings and on providing apparatus for the schools, and very little on real education, that is, on the salaries of the teachers. Therefore, unless we provide satisfactory machinery and have a definite and sound policy about primary education, as regards administration, as regards curriculum, as regards the system of instruction, as regards the manner of spending money, it will never be popular among the people.

The third point which the Committee will have to inquire into is the curriculum of studies. We all know that the present courses of instruction were designed to produce clerks for Government service. Now we have got an over-production, and the time has come when we should stabilise, speaking in terms of currency, this particular commodity and try to produce some other article which the country needs and which has a stabilised market price. In other words, we ought to introduce some element of technical education in all the schools. This is a very important principle, and unless our educational programme is thoroughly overhauled in order to give a technical bias to liberal education, it will not be possible for us to go a long way. As regards technical education, we have got two distinct methods pursued in two different countries. In Germany technical education is compulsory for all. Every boy and girl over the age of 14 is put in a technical school and he or she has to pass a certain examination before entering life. In England technical education is sandwiched in the general education, and they say that every subject has a cultural and utilitarian value. Take history for example. It is a subject for general culture and is also a bread and butter subject when it is studied for the Civil Service examination. So are carpentry and other vocational subjects. There is an element of culture, and an element of utility. This system of combining liberal and technical education in England, as practised in her central schools, is a thing which we ought to follow and adopt in our institutions. That is one important thing into which the Committee will have to enquire.

Now, coming to examinations, this is really a subject into which a good deal of investigation is necessary. I have just published a book on this topic and it is in the hands of the Members of this Assembly. I have referred in this book to the researches on examinations made by different individuals. I draw attention to the researches made by Mr. Kuppuswami of the Training College, Trivandrum, in which he has shown that by our present system of examination no serious injustice is done, if instead of reading the answer books of candidates, you simply put all the marks in one box and put the roll numbers in another, and draw by lot the number to be given to a particular roll number. People will be horrified to hear this, but it is a fact. (See page 32 of my book on examinations.) Mr. Kuppuswami did not carry on his experiment in a paper on history where a vast variety of opinion is possible, but he took a paper in mathematics and sent it to 42 different examiners, and the marks allotted by those examiners varied from 11 to 37. (*An Honourable Member*: "What about the whim of the examiners?") My Honourable friend makes reference to the whim of the examiners. Here is a problem which can never be put in a mathematical figure. There are certain examination errors which can be codified and expressed in terms of numbers. The whim of the examiners is such that it cannot be expressed in a numerical number. If I had time I could give many illustrations of the whims of examiners, even talking of experienced examiners, about whose integrity and whose

judgment there can be no question, and who are supposed to have no whims of their own. Experiments were made by Prof. Edgeworth in America which lead us to the same conclusion. Dr. Ballard has given another illustration in his book. A paper in history was examined by six different professors. One of the professors wrote out model answers, but inadvertently his model answers got mixed up with the answer books of the candidates whom he had failed and this was examined by the five other professors. Two definitely failed him, two gave him second division marks and one gave him first division marks. A large number of such illustrations can be quoted. Therefore I ask whether the time has not come to revise the whole system of examinations. Other systems of examinations are being tried in Germany, France and America. The German system is like the old Indian system, but under conditions now prevailing in India I would never advocate it. Under the French system the answer books are open to the public, and the oral examination is conducted in the presence of visitors for whom special seats are provided. The examinations are held twice a year, so that a person who has failed may be re-examined immediately after the long vacation and the results are announced in a week or ten days. I ask whether the time has not come when we must revise our system and bring it into line with a system where there is no element of chance and where examination errors don't exist.

I shall now say a few words about university education. The Universities of Bombay, Calcutta and Madras were established in 1858 on the model of the London University as it then existed. After the lapse of half a century, as the result of the Haldane Committee's Report, which condemned the affiliating type of university, it was found that the unitary type university was the best. Fortunately or unfortunately the Sadler Commission sat after Lord Haldane's Committee had reported and it adopted their recommendations in principle. Now, what happened in England? Lord Haldane himself changed his opinion, and when addressing the University in Wales, he definitely went against his previous idea. England is now going back more and more to the ideal of an affiliating university. London and other universities have got agricultural colleges outside London. Now, we have got ten years' experience of these universities. They are very expensive institutions, and the time has now come when we should also revise our system of education, because the system is also changing in England. As rgards the cost of education in these universities we find the cost of education in Dacca College was less than one-third the cost in Dacca University. The Muir Central College cost about one-third of the education in the Allahabad University. The same is the case with Lucknow, Benares and Aligarh. On account of financial stringency, the time has come when we should also revise our policy which has changed in England during the last few years.

I now come to the side of administration. This was devised by the Hunter Commission in their famous Report of 1882. They created the post of Director of Public Instruction on the lines of Directeur de l'Instruction Publique in France. There is no such post in England. At the time when this organisation was recommended, there were very few institutions, and a single individual could manage the whole affair; but now things have changed. Education has become a very important subject and it is now impossible for one person to manage all types of institutions. Sir Philip Hartog's Committee have tabulated the duties of the Director of Public Instruction in their Report. They have omitted about

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[Dr. Ziauddin Ahmad.]

half a dozen duties in that Report and the total comes to about 24. I was surprised to see that they did not make any suggestion as to how relief should be given and it is time to reorganise our administrative machinery on the lines of France whom we attempted to follow where they have special directorates for higher education, secondary education, primary education and female education. They also have a Supreme Council to advise the Minister and Directors. No such Council exists in India. The Minister of Education here is not an educational expert and his Secretary, who is a Civilian, is also not an educational expert. In some provinces, the Director of Public Instruction is also the Joint Secretary and he is the only individual on whose expert advice the administration is based. It is now impossible for any one man, however able he may be, to be an expert in every phase of education. A person may be an expert in higher education, but he may know very little about primary education and female education. So a person who poses as an authority on every phase of education is not an expert. Therefore it is time that we split up the different phases of education and had advisory committees as in France for different aspects of education. People are not satisfied with the way the funds are spent by the Director of Public Instruction. If he visits a school and is given a garden party, then that school will get a grant. If any school follows a principle which is not liked by the Director, or he takes a personal dislike to it, then that school will be run down and will not be given the grant which it deserves. In other countries grants are given according to the need of the people. Here they are given in proportion to the wealth you possess. This is just the reverse principle. In other countries they will ask you how much money you need. Here you will be asked how much money you have already got. That means the rich man will get more rich and poor people more poor. The poorer people who need maximum help are not helped by this grant system.

The second respect in which it is wrong is that everywhere the minimum grant is fixed, but here in India the maximum grant is fixed, which is not a correct thing to do. Sir, if any one asks me what is wrong in our system of education, I have a simple reply and I say that everything is wrong from A to Z. If anyone will ask me, "What is the thing which you praise and which you like?", then I shall say, "There is everything which I do not like, and I cannot put my finger upon anything which I should praise and which I should consider to be an ideal for other countries to follow". When dissatisfaction is widespread and everything is wrong, it is high time that the Government of India appointed a committee to look into the affairs of education, and for the purpose of co-ordination the committee should examine education as a whole. So far, committees and commissions have examined only one particular problem of education and no committee since the British system of education was established in this country has ever examined the subject of education as a whole, and in order to have a co-ordination between the different phases of education, it is absolutely necessary and highly desirable that one committee should examine the subject of education as a whole. There is one thing more the consideration of which is very badly needed, and that is the system of training colleges in this country. People will be startled when I say that the training colleges in India in all the provinces are really 50 years' old institutions. They have a subject called the "history of education", but that history ends with Herbert Spencer and all the educational progress which has been made

from the time of Herbert Spencer (*i.e.*, 1875) onwards, all the changes that have been made after the war are unknown to the students of these training colleges. Now how can you expect that when they come back to the country, they will spread enlightenment in the country, they will reform education, since they themselves are more ignorant than the people whom they are expected to teach? Besides, in these training colleges they lay very great stress upon how to teach, but they ignore entirely what to teach, and so the result is that whenever a trained teacher comes and begins to teach in his class, he lays very great stress upon how books are to be kept, how papers are to be folded and such other superfluous things, but when he comes to the subject-matter, one finds that the teacher is not much wiser than the taught, and that is the reason why our whole standard of education is going down. I think it is high time that these training colleges should also, therefore, be revised. Coming to the normal schools . . . . . .

Mr. President: The Honourable Member has got only two minutes more.

Dr. Ziauddin Ahmad: Now in the United Provinces and other provinces the system of recruiting candidates for the training colleges is very peculiar. There is no co-ordination between the vernacular instruction and the normal schools. Boys pass at the age of 14 their vernacular middle examination. They are then allowed to graze cattle or to serve in the fields for about 3 or 4 years and afterwards they are sent out to normal schools. During those years they practically forget whatever they have learnt and in those 9 months they are only taught how to teach and not what to teach and consequently they come back from these training classes after forgetting what they had learnt in schools. Have I got one minute more? (*Mr. President*: "Yes.") There is one more point to which I should like to draw the attention of the House and that is that the only constructive proposal made by the Hartog Committee was the establishment of a special Board connected with the Government of India for co-ordination purposes. I wanted to move a motion to that effect and gave notice several times, but unfortunately it was never balloted, and I hope the Government of India would soon start this Board, which does not involve much expenditure. (Applause.)

Lieut.-Colonel Sir Henry Gidney (Nominated Non-Official): Sir, it is with great pleasure that I rise to support this Resolution. I do not claim to be an educationist like my friend, Dr. Ziauddin Ahmad, but I do claim to have some practical knowledge on the subject of European education as it effects the Anglo-Indian community and I shall therefore confine my remarks mainly to this aspect of the Resolution and its relevance to the Hartog Committee's Report. Sir, I was not at all surprised to hear the severe criticism and complaints against education in this country considering the fact that the force directing education in this country is in the hands of the Department of Education, Health and Lands, which, for want of a better name, I generally call the "Hotchpotch Department". (Laughter.) Sir, I have every respect for the Honourable Member in charge, and his able Secretary, and I therefore hope the criticisms I intend making today will not be taken amiss. Sir, in dealing with the disinclination of financial support by the Government of India to education, I am reminded of an incident which occurred when years ago the Viceroy's

[Lieut.-Col. Sir Henry Gidney.]

Imperial Council was held in Calcutta and a budget discussion was proceeding on the expenditure on the Army. I believe it was the late Sir Surendra Nath Banerjea whose claim for a few lakhs of rupees for improving the education of India was rejected just after some crores of rupees had been unanimously sanctioned for the Army by this very Council; and he was heard to remark to this effect: "A few minutes ago this Council was asked to pass without demur crores of rupees to improve the military machinery and supply cannon to blow out people's brains and yet you refuse to sanction a few lakhs to improve the people's brains." Sir, it is the same spirit and condition today, as the Honourable the Mover of this Resolution pointed out, of lack of support from the Central Government. I know I am treading on delicate ground when I attempt to criticise and blame the Central Government because I do appreciate the fact that with the reforms came the all but complete transfer of education to the provincial Governments. But notwithstanding this fact the Central Government has an Educational Commissioner who advises the Government and who is expected to be and I am sure is *au fait* with the educational needs of this country. As far as European education is concerned, I can say that the Government of India exercises very little or no control or interest in this matter. European education as this House knows is now a reserved transferred subject under the control of the Provincial Governors in Council. In my opinion the present system of European education as it is taught in our European schools today is completely out of step with the rapidly changing India and our economic needs. I refer to the Senior Cambridge system of examinations imported into European schools and enforced on the Anglo-Indian community at a prohibitive cost and encourages an alienation of the community from Indian universities and other Indian communities. The result is that the education imparted in European schools has been and is today entirely in the hands of European educationists who come out to this country on high salaries and who certainly are inferior to those great educationists who came out years ago, nor are they superior if at all equal to Anglo-Indian teachers trained and recruited in India. The result is that European education in this country for our boys and girls is a most expensive item and what is more our own educationists are denied, except in subordinate positions, the inherent right possessed by all communities, *i.e.*, the right to shape and train its own youth. The entire community resents this denial of its rights and demands it from the Government of India. It demands the right to control and administer its own educational institutions. That, Sir, is the chief complaint I have to make against the present administration of European education. Further, I opine the time has come when the Hartog Committee recommendations on European education should be taken into account and a committee should be appointed to inquire into the very just and reasonable claims made by the Mover of this Resolution regarding the existence of multiple educational curricula in this country, each province having its own system of education. Sir, there is no continuity, no linking up of the educational chain throughout the European schools in India. This is a very serious disadvantage of the present system of European education in this country and demands immediate correction. Another point, to which I wish to refer, is the Government of India's niggardliness in giving educational scholarships. The Mover of the Resolution has touched upon this question and I support him in what he has said. When you compare the number of educational scholarships given in this country with those given in any other country, it stands to the discredit and shame of the Government of India and every Provincial Government. Indeed it seems as if the last thought the Government gives today is with regard to the education of the people, everything else is put before education. They do not care how much they spend on other departments. For instance, they do not care how much they spend on Lee Concessions, which go by another name in this House, namely, the Lee Loot, and which costs the Indian taxpayer 2½ crores of rupees per annum. Sir, any serious effort to improve education in this country especially higher education is practically at a standstill and one is compelled to go to Europe and elsewhere for this. I go further and say that every Provincial Government is annually reducing its education grants of all kinds and blaming financial stringency. I say this subject to correction in certain parts. Compare, for instance, the scholarships given in British India with the educational scholarships given in Feudatory India. The Princes are certainly more liberal than the Government. Sir, this starvation of education is one of the main causes why India is advancing so slowly and on such artificial lines when compared with other eastern countries. I further contend that the system and training are so framed as to limit the scope of education in this country so that if higher education is sought the student must go to England and other parts of Europe to be educated before he can enter any of the superior services in this country. India is the only part of the British Empire from which this demand is made, I ask why should this be so?. It is true that this European educational cachet is not so much a *sine qua non* today as it was before the Reforms. But still the educational hall-mark of Europe always receives official preference. The reason is that the system of education in this country is so designed that it constitutes itself as nothing more nor less than a stepping-stone or an incubator for subordinate Government service, while for higher employment one must be educated outside his own country. I say this from personal experience as far as European education is concerned. Indeed the curriculum of education in European schools is framed with the object of qualifying its students to enter as subordinates into mercantile offices, railway workshops or Government Departments and offices. That is really the curse of European education as taught in European schools in India today. There is no broad or material outlook in the educational system of schools in this country. Nothing practical—nothing original—it all seems too mechanical—of one pattern which is moulded on an imported system. The Cambridge system of examinations, which should be discontinued at once. Then, Sir, the Honourable the Mover of the Resolution referred to the training colleges in this country. As far as European education is concerned, there is only one such training college in the whole of India for male teachers—at Ghora Gali. The Army Retrenchment Sub-Committee has been kind enough to recommend that the grants to certain military and quasi-military schools should be stopped and the Army Department has accepted this. Furthermore that the Punjab Government, on the recommendation of its Provincial Retrenchment Committee, has agreed to stop its grant to the Training College at Ghora Gali which institution stands in imminent danger of closing down. If this should happen it will be a fatal blow to European education in the Punjab, which, thanks to the late D. P. I. Sir George Anderson, has made such rapid strides. I, therefore, call upon Government to enquire into the matter.

Dr. Ziauddin Ahmad: Shame, shame!

Lieut.-Colonel Sir Henry Gidney: Yes! Shame to the Retrenchment Committee. Sir, if the Government of India is really serious in its desire to encourage and improve education, they should call upon its Education Commissioner to make a report on the effect the recommendations of these various retrenchment committees will have on European education, both Central and Provincial. The Government of India is certainly responsible for the standards of medical education as evidenced by the All-India Medical Council Bill now under review and I do not see how it can disclaim entire responsibility for the standards of general education, although education is a transferred Provincial subject. It should call upon the various Provincial Governments to state what they propose to do to protect the various institutions that stand in the danger of losing their grants, *e.g.*, the Lawrence Schools at Ghora Gali, Sanawar, Mount Abu and Lovedale. Sir, I find it very difficult to be temperate in my feelings of resentment at this contemplated murder of some of our best European schools in India and I do think the Government of India should realise that if the training college for male teachers at Ghora-Gali is closed down, they will be doing a great disservice to European education and the Anglo-Indian community who deserve better treatment at the hands of a Government it has served so well. Another defect in European education is that we concentrate too much, as I said just now, on ordinary academic education and do not give enough attention, as the Mover of the Resolution has remarked, to technical education. I do think that more attention should be given to this. I have just referred to the many educational curricula that exist in various Presidencies in regard to European education. Possibly this House does not realise what these difficulties are and how they prejudice continuity in European education when parents are transferred from one to another Presidency. The Madras Government have a certain standard of education and examination, the Bengal Government have quite a different one and this is the case more or less with all the provinces—in short there is a complete absence of uniformity and the Hartog Committee recommended this to be remedied. Besides, the various Education Departments, *e.g.*, the Directors of Public Instruction and Inspectors of European Schools—I will not say the Government of India—have, if not openly, at least covertly given their entire support and sympathy to the retention of the Senior Cambridge system of examinations. In my opinion the time has come when that system of education and examination should be stopped and European education should be based more and more on national lines. Indeed the time has come when European schools should accept and train for the same examinations and degrees that Indian universities demand and not depend on a Cambridge education syndicate which today controls its examinations at prohibitive fees. Indeed, I would hail the day when all advertisements for teachers and other employments appear in various newspapers with the headline, "None but graduates of Indian Universities need apply". Sir, I remember I brought this matter up in the Legislative Assembly in 1923 as far as the teaching of surgery and medicine was concerned and asked Government to appoint a committee to inquire into our universities and hospitals so that India would be in a position to supply all her medical needs and to so improve the standard of its universities, medical colleges and hospitals that we would have no need to indent on any other country for our doctors. Be it said to the shame of the Indian

Members, that Resolution, Sir, was turned down by this House. I however hope that the present Resolution will not today meet with the same fate that my Medical Swaraj Resolution did. I hope it will receive the sympathy of every right-minded Member in this House and that we will not only pass it but that Government will give its support and see that something is done to improve education in this country not only Indian education but European education also. I think the House should be grateful to Dr. Ziauddin Ahmad for bringing this matter to our notice. Sir, I support the Resolution and call upon the Government to do its duty even if it be only in an advisory capacity.

Rai Bahadur Lala Brij Kishore (Lucknow Division: Non-Muhammadan Rural): Sir, I beg to move the amendment which stands in my name and which reads as follows:

"That for the words 'to appoint in consultation with the Provinces a Committee' the following be substituted:

'to summon a conference of the Educational authorities in India'."

I beg your permission, Sir, to speak a few words explaining the reasons for my giving an amendment to the original Resolution of my Honourable friend from my province Dr. Ziauddin Ahmad. My Honourable friend has asked for a committee to investigate into the system of education that is in vogue in India and to suggest means for the betterment of the same, but in my opinion a conference consisting of the best educational authorities in India which would submit a written memorandum for discussion in the said conference will tend to produce better results than a touring committee. The past is the better teacher, and supplies us with ample evidence that the work of a committee is the production of a booklet or a book. The scope of activities of that book is within the book itself and it is ultimately shelved in the Government or in a public library. When it is published, there appears in newspapers a little criticism on it, pointing out the merits or demerits of the findings of the committee. The newspaper reading public, which is interested in the affair, holds for a short time gossip over the matter. Then everything becomes quiet. The public are silent, the Press is silent and the Government are silent and everybody is silent. The recommendations of the Sadler Commission and the Hartog Committee, which cost Government enormous sums of money, have met the same fate. If this is the fate of the committees, I don't find any reason why any more committees should be appointed on this subject. From my statement made above, it should not be assumed that I disbelieve *in toto* in the efficacy of such committees, but they are very lengthy and cumbrous processes of investigation to reach a certain goal, and moreover it is so expensive that if we take a ratio between the expenditure on such a committee and its outcome, the ratio will be a lakh to one. There are other defects, but I don't like to tire the patience of this House by making a categorical statement of them.

The Educational system in India, its method of teaching, its prescription of text books, its examination system, its administrative policy, and the mode of expenditure concerning it is in such a deplorable condition that it requires overhauling. I have no mind to narrate in detail the defects underlying the several headings I have mentioned. The reports of the commissions and committees on the system of education in India are copious sources, giving ample evidence of the defects of the system.

[Rai Bahadur Lala Brij Kishore.]

To seek a remedy for these defects by the appointment of committee after committee is nothing but ludicrous. So, I most humbly put forward my opinion for the abandonment of any ideas for the appointment of a committee that may give reforms to our present system of education. Sir, we have up to this time, advocated the appointment of committees and we have seen their fruitless result. Now let us resort to the policy of summoning a conference and see if anything will come out of it. In my opinion a conference of this nature should be representative of the best educational brains of the land, brilliant professors, eminent teachers of standing, vice-chancellors of all the universities and Directors of Public Instruction of all the provinces of India should form a representative gathering while they should submit written memoranda suggesting the best means for the reform of the present educational system of India. Each of their opinions will be criticised and the best of the points in which the majority of opinion concurs will be accepted, and they will form the basis of our new system and be taken in the light of the conditions of the country.

Now, Sir, a point may arise as to the question of expenditure on this Conference. I should like to enlighten the Honourable Members of the House with this suggestion, that it should be borne by the provinces and universities whose delegates will be invited to attend the Conference. The aims and objects of all the universities are to further the progress of education.

If by an inter-university gathering, better results can be expected, there is every justification that the universities of India and other institutions will gladly bear their expenses of their respective delegates who will attend the Conference.

With these words, Sir, I commend my amendment for your kind acceptance and the acceptance of all the Honourable Members of this House.

Mr. President: Amendment proposed:

"That for the words 'to appoint in consultation with the Provinces a Committee' the following be substituted:

'to summon a conference of the Educational authorities in India'."

Dr. Ziauddin Ahmad: Will the debate now proceed on the amendment first?

Mr. President: Both together.

Mr. Jagan Nath Aggarwal (Jullundur Division: Non-Muhammadan): Sir, I have much pleasure in supporting the Resolution of my Honourable friend. But whenever a committee is proposed from this side of the House, one would really like to have very strong reasons for supporting it because, as we know, whenever an inconvenient question turns up, the best way of shelving it is to appoint a committee and the committee takes time, spends money, and by the time it reports, the question has lost half its value, and when the report comes, then time is needed for considering it. The finest way of shelving a question is to appoint a committee, but this question is so important and the difficulties of the problem are so great that I think it is just as well if this House accepted this Resolution and appointed a committee to consider this

matter. The reasons why I commend this matter for the acceptance of this House are well known and I will state them shortly. It is rather curious that the Government of India have practically washed their hands of education, and the reason is that it has been transferred to the provinces. One finds in the latest Administration Reports that the Department of Education, Health and Lands is responsible for the education only of the North West Frontier Province, control over the Chiefs' Colleges, the University of Delhi and the denominational Universities of Benares and Aligarh, and in this chapter we find more about kala azar, small-pox and such other things than about education. (*An Honourable Member*: "Hotchpotch".) It is worse than a hotchpotch, because education has very little share in the Report, and therefore the need for such a committee or Conference, if you prefer to call it—I prefer the word committee— is very urgent indeed. What is it that we really wish to bring to the notice of this committee? What are the defects that we would like to remedy in this connection? The first thing that we have to look up to is that education in this country started with the idea of providing clerks and we have not yet got rid of that original taint. It was not education for its own sake, but it was for the sake of providing clerks, and that kind of academic education has continued. Education has been divorced from certain realities of the situation and those defects have not been got rid of. I will just point out to you the defects which I wish to bring out. One is that we have attempted academic education mostly confined to persons who are after liberal education only. Our education has been in the main of a kind which will give a person a smattering of several things and a real knowledge of practically nothing. This academic education has suffered from the defect on the one hand of being carried on in a foreign language and being divorced from the vernaculars and on the other it has been brought only to a limited class of people. Only a few people can take advantage of the education. They go on reading up to higher and higher classes. A man who starts at the matriculation aims at passing out of the university and becoming a graduate or M. A. and he has very little chance of going out to technical or professional lines or taking the benefit of a general education to acquire, so to say, an education which will fit him for a career in life. Now, Sir, with regard to this, you will notice that we have attained to a fair degree of higher education, the numbers are fairly large, as large as you will find in any large country. But what do we find with regard to education of the masses? As regards education of the masses, we find that after nearly a century of British education, the masses are largely illiterate, and seeing the rate at which the country is progressing in the matter of education, it will take a century for illiteracy to disappear from our country. In spite of the fact that the provinces are looking after primary education, our progress in the last decade has been remarkable, but even there, I submit it has not been wholly sufficient. My suggestion, therefore, is that this Committee should look into the question whether primary education and the interest that is being taken in primary education by the various provinces is commensurate with the result being achieved within a reasonable distance of time. We have to see that the general population does receive the benefits of elementary education, that this education is imparted in their vernaculars, and that within a reasonable space of time, illiteracy should be banished from this country. If that is so, then some concentrated efforts on a large scale should be made in each province and the Central Government should take a hand in the matter and should give a lead to the various provinces, and we

[Mr. Jagan Nath Aggarwal.]

should so arrange matters that within a short space of time, say 15 years or 10 years, whichever may be fixed, we may be able to bring up every school-going boy and girl into a school and we may be able to impart education in his or her mother tongue, and then we will have a broad-based system for evolving higher education. For this purpose, it was rather unfortunate that the Bill brought forward by the late lamented Mr. Gokhale was rejected in 1911, and it is time that the Central Government took the matter into its own hands and gave a lead to the Provinces.

That is one aspect of this question which I think this committee may very well look into. Another subject, Sir, which this committee should go into is, as my friend Dr. Ziauddin put it, the sandwiching of technical education with the present liberal education. Some time after the secondary stage, or after the primary stage, you must devise schools in which, alongside of liberal education, you may be able to impart technical education to fit these people who are not prepared to go into the universities with means of earning their livelihood. Technical education in arts and crafts and industry is what is needed most and for that purpose our present system of education is wholly unsuited to the needs of the modern age. We should also aim at having technological colleges for imparting education in higher branches, and these are matters which should be gone into.

So far as higher education is concerned, I am at one with the previous speaker, Sir Henry Gidney, when he pointed out that at present our resources are being frittered away in the search for foreign degrees. It is our misfortune that no man can be equipped for a good many professions and for higher appointments in the Government service unless he has secured a foreign degree. The resources of parents and others are frittered away in this attempt to get a foreign degree, which after all may not be worth much, and it is time that we looked into this question to see that practically all kinds of education are made available for our people in this country. A complaint was made by Sir Henry Gidney that European education is suffering from lack of funds and from various other disadvantages. May I remind him that that is a difficulty from which all kinds of education are suffering? And it will be very good indeed if the community, whose claims he was bringing to the notice of the House, made common cause with the people of this country. Let them be in the same schools, raise up the standard of those schools and be on the same benches and see if the system of education does not make progress within a very short space of time. The difficulty is that everyone wants to have a separate institution, and in having these separate institutions the resources of the State are frittered away. For example what is the use of the Chiefs' Colleges? You educate 10, 20 or 30 people at a cost which would enable you to educate thousands of people. And then look at the output of your Chiefs' Colleges. Have they justified the expenditure that the State is incurring on them? How many people eminent in the arts or sciences have they produced? They have produced Rulers of States but they have not been fitted for their rulership by the Chiefs' Colleges. Their training may have been obtained elsewhere but not in the Chiefs' Colleges. Anyway that will be a matter which will have to be looked into.

Another subject that this committee may look into would be the great waste that is being incurred by the huge number of books that is

being prescribed. All kinds of books are foisted on parents and their boys and nobody has the slightest regard as to how these books are produced or of what use they are. These are matters of urgent concern in which the Central Government may well give a lead, and it should be looked into whether books are not being unnecessarily produced, ephemeral kind of literature, only required for a year or so and then thrown away at the end of the year. These are matters which have got to be looked into. I hope, Sir, that the Department of Education, Health and Lands, looking after other things than education, will turn their attention to these things also and call a meeting or conference or whatever they like with directions to proceed in a business like manner,—not to tour the country, I do not want it—to sit down in the offices of the Government of India, to devise a system, give a lead to the provinces, call any expert they like, to proceed about it—as I said—in a business like manner and not to produce a report at a time when nobody will read it.

Mr. A. Das (Benares and Gorakhpur Divisions: Non-Muhammadan Rural): Sir, this subject was very ably moved by my Honourable friend Dr. Ziauddin in spite of his not being previously prepared. He has put his case very well and I think we all have to express our regret for the lack of interest, which the greatness of the subject demands, at the hands of the Members of the Assembly. If I may be permitted to say so, I for one think that education, being the backbone of national existence, is one of the most important subjects to which any Government has to direct its attention, and it is a most lamentable thing in this Government that while they are fully alive to the fact that most of the present unrest is due to want of proper education or bad education, they are still not paying its sufficient quota of expenses nor taking sufficient interest in improving the curriculum of education which is given to boys and girls from a tender age up to the college going age. One general defect, which I should like to point out and which has not been so far hinted at, is that the whole system is based on a wrong basis. Formerly we had the system of *muktabs* or of *guru* and *chela* in which the teachers and the taught were brought into more close personal touch with each other; and also there was the system of not so much putting into the heads of our boys what is outside them but of drawing out what is latent in them. I think the most recent educationists of Europe are agreed on this point that no child should be made a machine for filling up his brain with the aid of so many papers and books and all that, but the system should rather be on the side of drawing out what is in the boy and pointing out in what direction his natural propensities lie. And after the teacher or the parent has discovered what is the natural inclination of that boy or girl, it is his duty to encourage it and to develop it. It is obvious at once that those of us who are not mathematicians like my friend Dr. Ziauddin find it very difficult even to reach the fifth proposition of Euclid or to pass an examination in ordinary algebra or arithmetic. Some boys take to the arts side more properly and some take to the science side. Therefore I submit, Sir, that the principal defect in education at present is that no general attempt is made to find out for each boy what he should be taught. That is the principle on which all education should be conducted,—it goes to the very root of the educational system. You cannot have one system for the whole class. Each individual boy has to be taken in hand. I know it is difficult, but if you want to build a nation and if you want to bring up proper boys and girls, you have to face the difficulty. Either face the difficulty or leave it alone, but do not have a

[Mr. A. Das.]

half-sided method like this which makes one fit neither for the one nor for the other. Sir, I have been connected with educational institutions for the last 15 or 20 years in my part of the country and it often surprises me how a boy going to school or college is proud to carry, like an ass's burden, so many books and papers, which are so heavy that he cannot carry them. And still he is expected to read them, and with much expense to himself or to his parents he has to pass the examination. I submit that the whole system of education at present, which is based on cramming, is an entirely wrong system, and the sooner it is replaced the better. My friend Mr. Aggarwal has drawn attention very rightly to the fact that this present educational system was introduced by the East India Company at a time when they were in need of clerks, and now they have got too many of them. The same principle was the basis when education was first introduced by Lord Macaulay but it should not be continued now and the time has come when education should not be given merely for making suitable clerks or merely turning out automatons for passing certain degrees and getting certain posts, but should be given really on national lines.

Talking about education on national lines, I am often thwarted in my attempts in the district to introduce books which would teach real patriotism and bring out the national point of view of the boy. How often we are told that in England from the nursery rhymes right up to the time when the boy goes to school or college, children are taught about the heroism of England; even when they are 4 or 5 years old children are taught that England is the ruler of the sea and has been the builder of nations and that England alone stands first; they are taught everything for England first and then for anything else. Now, if a boy in India is taught anything about India's past glory and about national songs and told who are the great heroes of India, it is all tabooed and the teacher who wants to teach them is always put down as a bad and disloyal teacher. What good is it to a boy to be taught as to what was done by Warren Hastings or Lord Clive or by the East India Company? What we want is that they should be taught about the national heroes of India, like Shivaji and various other leaders and of what they did for the country and how others are endeavouring for the future. Therefore I submit that the whole curriculum of education for boys and girls has to be recast in that light.

There are only one or two other observations which I would like to make because I do not wish to take up much of your time. Take the instance of scouting. I am very much interested in scouting myself and take considerable interest in it in my part of the country. Our difficulty is to find funds; and we find difficulty also in dealing with old headmasters who belong to the old type, because they will not encourage this, because they think it is a modern innovation and is of no use. I submit that is a great mistake, and I think it should be the duty of the educational department to make it a rule that scouting should be part of the education of the boy during the recess between school hours and every headmaster should be asked to conform to it.

Another point I would like to make is about the medical examination of students that is being done in each and every public and private school. A doctor is appointed and he comes on an appointed day and holds the wrist of the boy and sees his eyes and takes his weight and writes out a prescription for medicine or for spectacles as the case may be, and after that his work is done. How is the poor boy to get the medicine? What I submit therefore is this—and I have tabled a Resolution also on that point—that out of the game fund or some other fund a small dispensary

should be attached to each school, and every prescription which is given should be dispensed and it should be seen that the boy takes the medicine.

I have only made two or three suggestions because the subject is so wide that one can talk for days together and it is impossible to do justice to a subject like that without taking up each question in detail. But I whole-heartedly support this Resolution and if the expense does not permit of the appointment of a committee, then I submit that at least the modest amendment of my friend Lala Brij Kishore about appointing a conference should be accepted, and I hope that every Member of this Assembly will see the responsibility of imparting good education to our Indian students and will not keep out of the House and thus not vote for it.

Sir Frank Noyce (Secretary, Department of Education, Health and Lands): Sir, I have listened to this debate with very deep interest. I must confess, with the last speaker, that I feel somewhat surprised that the discussion of a motion which was put down by some thirty Members has not attracted a fuller House. I cannot claim more than a fragmentary part of the educational experience of my Honourable friend, Dr. Ziauddin. My own experience has been rather that of the taught than of the teacher. Nor have I been able to take that keen and sympathetic interest in European education which my friend, Colonel Sir Henry Gidney, has shown in a practical way on so many occasions in this House. I do not therefore propose to follow them in their critical examination of the defects of the present system of Indian education. Nor do I propose to deal in detail with the numerous and valuable suggestions for its improvement which have been thrown out in the course of this debate. I propose to deal with this Resolution from the extremely practical point of view.

I am prepared to admit at the outset that all is not well with the educational system of India. For that we need go no further than the report of the Hartog Committee, a document to which I attach considerably more importance than I gathered Dr. Ziauddin does. I have here a number of quotations from that report and they entirely support Dr. Ziauddin's view, but I do not propose to inflict them on this House. I will merely quote one or two sentences. The Committee said:

"Throughout the whole educational system there is waste and ineffectiveness."

and that, in the primary system, the waste was appalling. Turning to secondary education, the Committee's conclusion was that there had been an advance in some respects, notably in the average capacity of the body of teachers, in their improved conditions of service and training and in the attempt to widen the general activities of school life. Where the Committee has a good word to say for anything in Indian education, it is as well that this should be emphasised; but, here again, they go on to say:

"There are grave defects of organisation",

and they proceed to detail what they are. Dr. Ziauddin has already dealt with practically . . . . .

Dr. Ziauddin Ahmad: I think you may give them for the benefit of the House. I have read them; but a good many of us have not.

Sir Frank Noyce: If the House is willing, I am prepared to give them. They say:

"The whole system of secondary education is still dominated by the ideal that every boy who enters a secondary school should prepare himself for the university;

[Sir Frank Noyce.]

and the immense numbers of failures at matriculation and in the university examinations indicate a great waste of effort. Such attempts as have been made to provide vocational and industrial training have little contact with the educational system and are therefore largely infructuous. Many of the Universities and Colleges show marked improvements in their methods of teaching and in the amount of original work which they have produced; and in some of them there is undoubtedly a better training for corporate life than formerly. But the theory that a university exists mainly, if not solely, to pass students through examinations still finds too large acceptance in India; and we wish that there were more signs that the universities regarded the training of broad-minded, tolerant and self-reliant citizens as one of their primary functions. They have been hampered in their work by being over-crowded with students who are not fitted by capacity for university education and of whom many would be far more likely to succeed in other careers."

Now, I pass on to some comments which are particularly relevant to the present occasion. The Hartog Committee said that more and more money would be gladly voted for education by the legislatures of India. And here I would interject the remark that Col. Gidney's criticisms on expenditure on education do not seem to me to be altogether justified. Like him I have no correct figures at hand, but I gather that, on a rough estimate, in the larger provinces in the last few years the expenditure has increased from about 65 to 90 lakhs to over 2 crores, in which case, I think, it represents a very considerable advance. The Hartog Committee said:

"Money is no doubt essential, but even more essential is a well-directed policy carried out by effective and competent agencies, determined to eliminate waste of all kinds. We were asked to report on the organisation of education. At almost every point that organisation needs reconsideration and strengthening; and the relations of the bodies responsible for the organisation of education need readjustment."—

—a thesis of which we have had considerable amplification this afternoon. That, Sir, is the picture which was drawn by the Hartog Committee, and that picture has also been the picture which has been drawn in the course of this debate. But it is when I come to the remedy for the present situation that I am compelled to part company with the Mover of this Resolution, and also, though to a very much smaller extent, with the mover of the amendment. I hope to be able to convince the House that the present is not an opportune time for proposing the appointment of a Committee or even for convening a conference of educational experts. Committees, as this House is well aware, cost money in two ways. In the first place, they are very expensive things in themselves, and in the second place, very large funds are required to implement their recommendations. I would draw the special attention of the House to the remarks which the General Purposes Sub-Committee of the Retrenchment Committee have made in Part II of their interim Report in this connection. They point out that nearly a crore and a half of rupees have been spent in the course of the last 10 years on committees and commissions, from which I myself drew no small sums, I think, as I was on several of them. They add the very significant remark that, "These figures tell their own tale". The Honourable the Finance Member dealt with this subject in a very trenchant fashion recently in the course of the debate on a Resolution in this House, and he expressed my own point of view so well that I make no apologies for quoting verbatim from what he said in a recent debate on the Resolution advocating an inquiry into the affairs of the Imperial Bank. He pointed out that a great deal of the subject matter which had been dealt with in the debate and which formed the ground on which the motion

had been moved had been dealt with in the Report of the Central Banking Inquiry Committee. For "Central Banking Inquiry Committee", Sir, I would substitute "Hartog Committee". He then went on to say:

"The second reason which I would put forward just now is that, however, much we try to keep down expenditure, these inquiries do cost a very great deal of money. It is very easy when any point comes up, to say, 'Let us have an enquiry into it', and I myself must confess that I have been rather prone in the past to lend an ear to suggestions of that kind. But I have learned by bitter experience how much these enquiries cost and I am becoming very doubtful in my mind whether that expenditure is always justified. One gets a large number of voluminous reports. By the time they are received the Government is fully occupied with other affairs, the attention of the country is occupied with other affairs, and reports on which so much money has been spent receive but scant consideration. The reports of the Banking Inquiry Committees itself in fact are an instance in point."

Here again, Sir, I would, if I may, substitute the Report of the Hartog Committee:

"I myself do not regret having initiated that inquiry. I believe that in the future the evidence that has been collected by the Provincial Banking Inquiry Committees and the Central Banking Inquiry Committee will prove a store of knowledge of very great value to the country. But I would ask Honourable Members opposite to put it to themselves—how much attention has the result of those labours received from the public just at this time when everybody's mind is turned to big political developments, to the immediate troubles in the country, or to the impending constitutional changes in the near future. Would an inquiry into the Imperial Bank now receive any more attention, and can we, in our present financial stringency, really justify ourselves in spending a great deal of money on a further enquiry?"

May I, Sir, emphasise that every word the Honourable the Finance Member said applies with equal, or perhaps greater force, to an enquiry into the existing system of education. It may, of course, be held that education is a matter of great importance,—a point of view which I for a moment would not dispute,—and that considerations of economy should not decide the House for or against the Resolution. It has been argued that at present there is such great waste in education that a Committee of the kind proposed should be able to suggest ways of saving money or at least of putting it to more economic use. This argument, at first sight, appears to have great force, but I venture to think that a closer examination of it shows that it is of a somewhat spacious character. I would urge that our experience shows that the utility of a Committee of the kind that Dr. Ziauddin Ahmad has proposed is more than doubtful. During the last few years we have had in India two Education Committees of great importance. The first was the Sadler Commission, the second, to which I have already referred, is the Hartog Committee. The Sadler Commission was intended to be confined to the investigation of the problems of secondary and higher education in Bengal, but it took on an all-India character. The Hartog Committee covered all branches of education in all provinces. It went deliberately beyond its terms of reference and made constructive suggestions relating to every branch of education. If Honourable Members of the House will read the Report for themselves, I think they will find that this contention is justified . . . .

4 P.M.

Dr. Ziauddin Ahmad: Will you kindly mention half a dozen of their recommendations.

Sir Frank Noyce: I would like to mention two very important ones, and I will do so in a minute or two. In addition, the Royal Commission on Agriculture devoted a very important chapter of their Report to education, and I may mention in passing that that chapter received the warmest

[Sir Frank Noyce.]

commendation from Sir Amherst Selby-Bigge, who was also a Member of the Hartog Committee, and is one of the most prominent authorities on education in England. The Royal Commission made some very definite suggestions, and those are given in detail in their Report. Now, what has been the effect of these committees and commissions? The Sadler Commission produced a Report which, with appendices, ran into 18 volumes. That Commission cost over 3½ lakhs of rupees. Whatever may be the merits of the recommendations made by the distinguished educationists who composed it, of whom my friend Dr. Ziauddin was one, the hard fact is that effect has been given to them to a very small extent in the provinces to which they were primarily addressed, and to a limited and conflicting extent in two other provinces only,—the United Provinces and the Punjab. The Hartog Committee was distinctly of an all-India character. The cost of that Committee was slightly over 2 lakhs of rupees. The Report was no doubt of value for the facts it disclosed to the Indian Statutory Commission. But what has been its constructive value? It made several recommendations. I need only quote two of the more important of them—those for the better administration of vernacular education and those for increased facilities for the education of Muslims. No Provincial Government, so far as I am aware, has so far been able to give anything like full effect to these recommendations.

Now, Sir, I turn to another aspect and a very important aspect of this matter. One reason why it appears to me that committees of this kind appointed by an outside authority have failed and must fail in their attempt to direct the educational policy of the provinces is that the provinces, rightly or wrongly, object strongly to outside direction in matters of education, even in the mildest form of recommendation or suggestion. I would remind the House that except to a limited extent in regard to European education in some provinces, not in all provinces,—they have complete self-government in educational matters. They are very jealous of their powers. Their Legislature, as one may judge from their Budget debates—my impression seems to be rather different from that of my Honourable friend Sir Henry Gidney—take more interest in education than in any other subject under their control except perhaps politics. They decline to believe that outsiders, however distinguished, can understand their problems and help them to solve them. They realise, quite rightly I think, that conditions of race, community, language, social customs, administration, finance and educational inheritance differ so radically and widely from province to province that there can be no common solution. In our young days we were all plagued with problems on a mysterious topic described by the symbols G. C. M. (Greatest Common Measure) or H. C. F. (Highest Common Factor). Given certain factors, it was possible by some juggling and little understanding to arrive at a factor which embraced them all, but by the very nature of educational problems, the greatest common measure of our provincial factors must be so vague and general as to be useless as a guide to any of them. The more nearly a statement of educational policy, administration, finance, curricula, and examination represents all-India, the less helpful it must become to particular provinces, for on arriving at an educational greatest common measure, it is necessary to eliminate all that which is peculiarly and distinctively provincial; in other words, to eliminate the very factors which must be taken into account if the solution is to be of any practical value.

Having got thus far, it may be asked what the Government of India propose to do in this matter. I would remind them of another conclusion of the Hartog Committee which has already been mentioned by Dr. Ziauddin Ahmad, though he only devoted a few sentences to it at the end of his speech. The Hartog Committee suggested that the Government of India should serve as a centre of educational information to the whole of India and as a means of co-ordinating the educational experiences of the different provinces. That, Sir, is a view which the Government of India accept and on which they are prepared to act. Let me remind the House of what I said in a speech I made when the subject of education was last before this House. I then pointed out that the Hartog Committee had suggested the resuscitation, or rather the revival in a somewhat different form, of the old Bureau of Education, which was abolished in the last era of retrenchment in 1923. The functions of this Bureau would be to give information and advice to provincial administrations and to keep them in close touch with each other. They also recommended the resuscitation of the Central Advisory Board, which was also abolished about the same time. That Board consisted of the Educational Commissioner with the Government of India, who was Chairman, an expert from the United Kingdom when required, two Vice-Chancellors of Universities in India, one of whom was a whole-time officer, two Principals of privately managed colleges, four Directors of Public Instruction, and four non-official Members interested in the subject of education. I drew the special attention of the House to the last item in this list, namely, four non-official Members specially interested in the subject of education, for among them was the honoured name of the Right Honourable Srinivasa Sastri. I explained that the revival of this Board was under the consideration of the Government of India, and added that the question was obviously one on which it would be necessary to consult Local Governments. Some progress has been made since then. We have asked Provincial Governments for their views on the subject. Their replies are still not quite complete—I think there is only one still outstanding—but I am glad to find that the majority of the Local Governments recognise the necessity for the resuscitation of the Advisory Board which will be in a position to advise Provincial Governments and Administrations on all matters of policy, administration, studies, examination and spending of public funds referred to it by the provinces.

That, Sir, is the present position. As soon as financial conditions improve—and may that be very speedily—the Government of India propose to proceed with the establishment of this Board, and this House, will, I have every confidence judging from the tone of the debate this afternoon, willingly vote the funds that are required. When it is revived, the Board should, I venture to think, provide the most useful and economical means of enabling the Government of India and the Provincial Governments to formulate a definite and continuous policy in regard to educational systems in this country and will be a much more practical and far less expensive means of doing so than a committee of the kind which has been suggested in the Resolution.

I trust that what I have said will convince the House that the present is not an opportune time for the setting up of a Committee such as that suggested by the Honourable the Mover, and that, in these circumstances, he will not press his Resolution.

[Sir Frank Noyce.]

I come now to the amendment which has been proposed. With that, as I have already said, I am in a position to sympathise much more than with the original Resolution. But I still hold that at this juncture when Local Governments are occupied by so many more pressing problems, the proposal to convene an educational conference is hardly likely to commend itself to them. I would again reiterate the view of the Hartog Committee that money is essential for any reorganisation of the educational systems in India. That money will not be forthcoming until financial conditions improve. By that time we hope to have our Central Advisory Board for Education once more in being. I would submit for the consideration of my Honourable friend the Mover of the amendment that this Advisory Board meets the object he has in view. Not only so, but it goes much further. He has suggested merely an *ad hoc* conference, which will be summoned once and will then disperse. What we propose to do is to set up a Board which will be permanently in session. I may mention for the information of the House what the constitution of that Board is likely to be, and I should be very glad to send the Honourable the Movers of the Resolution and the amendment and any one else who is interested in the question a copy of the letter which we issued to the Local Governments on the subject. We propose that the Board should consist—provisionally that is—of the Educational Commissioner with the Government of India as Chairman, 10 representatives of the Provincial Governments who would ordinarily be Directors of Public Instructions, 9 non-official representatives of the provinces, and 3 nominees of the Government of India, totalling in all 23.

In conclusion, Sir, I would submit that what we want now is not further committees of enquiry but a body to which the Local Governments as well as the Government of India in regard to its centrally administered areas will turn for advice and assistance in carrying out their schemes for removing the blots on the educational system of this country. We know what is wrong, and we have considerable material on which to base schemes for putting it right. A permanent body of the kind, the constitution of which the Government of India have under consideration, should facilitate development in the right direction. I trust that after this explanation the Honourable the Mover of the Resolution and the Honourable the Mover of the amendment will withdraw their respective motions. (Applause.)

Dr. Ziauddin Ahmad: I just wish to say one or two words in connection with the points suggested during the debate on this motion. Let me take first of all the question of European education suggested by my Honourable friend Sir Henry Gidney. I wrote a note some time ago and drew the attention of the Education Department in the United Provinces to the fact that as far as the co-ordination of studies is concerned European education is the most mismanaged. If the present state of affairs continued then the domiciled community would be excluded from all share in the administration of the Government after a few years. They have got a system of education and of examination of their own, but it does not fit in with the general plan of education prevailing in the country. Their final examination does not entitle them either to join the university or the training colleges. There must be co-ordination between their plan of studies and the plan existing in the country. I am sorry that no attention was paid to it by the Director of Public Instruction, who thought

he was the all-knowing man, above any suggestions from any intruder. The net result was that nothing was done, and the position remains as pictured by Sir Henry Gidney.

One point was raised by my friend Mr. A. Das from Gorakhpur about the old institutions, the *patshalas* and the *guru* teachers. In this connection I may point out that last time, when I was in Germany, I met one of the greatest educationists there Prof. Sprenger. He pointed out that there was one aspect of education highly developed in India, and whose absence in the German system he deeply regretted and it was the development of the spiritual side in the education of children. In the old system of education in India, the spiritual side was very strongly developed. Unfortunately it is non-existent in the system of education in the West and it is non-existent in India. We should make every effort to restore it.

As regards the amendment proposed by my distinguished friend, Lala Brij Kishore, I am in entire sympathy with him. Whenever the Government do not want to do anything, they appoint a committee and by the time the committee reports, the whole thing is forgotten and no action is taken. He suggests a conference, but I have a difficulty if the members of the conference wrote separate minutes as he suggests and expressed their opinion, who is to decide as to what is right and what is wrong? Even if you convene a conference, a committee will have to be set up to sift the arguments advanced by different members of the conference.

As regards the suggestion of Sir Frank Noyce, I very much welcome this announcement. In fact, I have been waiting for the last two years to hear an announcement of this kind from the Government Benches, and I am very glad that after all the promise has been made. I sent him a note last year on this point. The excuse of financial stringency is not so acute now. This may have been true about September 1931, but it is not true in February 1932. On account of the flight of gold from this country to England, the financial position of the Government of India has very much improved. I shall discuss this question at the time of the Budget. If the Honourable the Finance Member had been here, I would certainly have asked him whether it is not a fact that, owing to the flight of capital and the inflation of money, the Government have paid one of their loans and therefore we are relieved at least of the interest on that which we would have paid, had not the capital been paid up. I believe the financial position is not bad now. The thing that is wanting is some definite proposal from the Education Department and a sympathetic consideration by the Finance Department, and I am certain that on account of the interest which non-official Members of the Assembly take in matters of education, Government will have the unanimous support of the Finance Committee and the unanimous support of the Assembly.

In this connection I will point out one particular thing. I understand that there is a proposal to do away with the office of the Commissioner of Education. The suggestion was concealed in among the many papers put before the Finance Committee, and just as many officers sign hidden papers without noticing the contents of the papers put up by their clerks, the suggestion was accepted by the Finance Committee. I thought that the subject would come up later on when I would raise my voice of protest. When the Government of India in the Department of Education express any opinion on educational matters, the draft must

[Dr. Ziauddin Ahmad.]

be prepared by a person who commands respect and authority in the minds of the educationists in this country, but the moment it is found out that a particular document was drawn up by a person who is not commanding universal confidence on account of his learning and experience, that document loses all its importance and then the Government of India will lose their position as an educational authority, and they might as well omit the word "Education" from the list of the subjects, or as Sir Henry Gidney said "Hotchpotch" subjects, attached to the Member in charge of this Department. While I welcome the announcement made by Sir Frank Noyce, I still insist that it is not a substitute for the committee of inquiry I proposed. Of course they have got a very good argument, namely, that they have no money. The expenses of the committee may be insignificant, but to carry out their recommendations will cost money. If the flight of gold continues, we do not know what may happen in a few months time. I think the position of the Government will brighten considerably. When I moved this Resolution, I did not mean to suggest that the Committee should be set up immediately, but I do suggest that the matter should be taken up as soon as conditions improve and the necessary funds can be provided for carrying out the recommendations of the Committee. In the meantime I think that Government should set to work on the subject and have the material ready, so that action may be taken as soon as it is possible to do so. With these few words I resume my seat.

Mr. President: The question is:

"That for the words 'to appoint in consultation with the Provinces a Committee' the following be substituted :

'to summon a conference of the Educational authorities in India'."

The motion was negatived.

Mr. President: I will now put the main Resolution.

Lieut.-Colonel Sir Henry Gidney: On a point of order. May I ask you whether it is necessary for Government to reply to the offer made by the Mover of the Resolution.

Mr. President (the Honourable Sir Ibrahim Rahimtoola): There is no further reply. If the Member of Government in charge wishes to reply he should ask for the permission of the Chair to do so.

Lieut.-Colonel Sir Henry Gidney: I want to decide which way to give my vote.

Mr. President: The Honourable Member has to decide on the debate as it has taken place.

Lieut.-Colonel Sir Henry Gidney: Very well.

Mr. President: The question is:

"That this Assembly recommends to the Governor General in Council to appoint in consultation with the Provinces a Committee to suggest suitable modifications in the existing system of education in India in regard to policy, administration, general plan of studies and examinations and the most economic method of spending public funds for education."

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 17th February, 1932.

LEGISLATIVE ASSEMBLY.

Wednesday, 17th February, 1932.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President in the Chair.

QUESTIONS AND ANSWERS.

FORMATION OF FRANCHISE COMMITTEES OF THE CENTRAL LEGISLATURE.

398. ***Mr. Gaya Prasad Singh** (on behalf of Mr. T. N. Ramakrishna Reddi): (*a*) Will Government be pleased to state whether it is a fact that the Franchise Committee is co-operating with the Franchise Committees formed in the provinces and whether it is the intention of Government to form similar committees of the Central Legislature?

(*b*) If so, when will such a committee be formed, what will be its function and in what manner is it proposed to be formed?

The Honourable Sir George Rainy: (*a*) and (*b*). Provincial Franchise Committees have been set up in eight Governors' provinces and in the North-West Frontier Province in accordance with the procedure laid down by His Majesty's Government. The question of making arrangements whereby the Franchise Committee would be placed in touch with representatives of the Central Legislature is under consideration, and I am about to place myself in communication with Party Leaders on the subjects.

USE OF THE VERNACULAR PRESS FOR RAILWAY PUBLICITY.

399. **Haji Chaudhury Muhammad Ismail Khan** (on behalf of Khan Bahadur H. M. Wilayatullah): (*a*) Has the attention of Government been drawn to a note appearing on page 2, column 3 of the daily *Hamdard* of Lucknow, dated the 31st December, 1931, under the caption "Wonderful Ways of Railway Publicity"?

(*b*) Is it a fact that most of the Railways publish their notices of auction sales, contracts, etc., only in English newspapers? Is it a fact that the class of people who usually tender for such contracts do not know English?

(*c*) Are Government prepared to direct that in future the Publicity Department of Railways should use the medium of the vernacular press also with the English press when advertising for their auction sales, contract tenders, etc.?

Sir Alan Parsons: (*a*) No. I have not been able to obtain locally a copy of the paper referred to.

(*b*) Government have no reason to think so. Railways have been advised in connection with notices of changes in time tables to consult their Local Advisory Committees as regards suitable newspapers in which to advertise, and this applies equally to other notices.

(*c*) No. If railway notices do not receive as wide a publicity as is desirable, the matter is one which can suitably be brought up for discussion at a meeting of the Local Advisory Committee.

MODIFICATION OF THE ORDINANCES.

400. ***Mr. Badri Lal Rastogi:** (*a*) Is it a fact that some representations have been made recently to His Excellency the Viceroy with regard to the Ordinances being administered in various parts of the country?

(*b*) Is it a fact that the Viceroy has been informed that the Ordinances in some cases have not been applied fairly and discriminately?

(*c*) Is it a fact that some of the Provincial Governments have also reported to the Government of India that in the interest of the general public it is essentially necessary that some of the clauses of some of the Ordinances should be modified?

(*d*) Is it a fact that His Excellency the Viceroy is consulting the Secretary of State for India about modifying some of the Ordinances which have been working all over India?

The Honourable Sir James Crerar: (*a*) and (*b*). Some representations have been received by the Government of India protesting in general terms against the promulgation of the Ordinances. Alleged instances of individual hardship were cited on the floor of the House in the course of the debate on the 1st and 2nd February. I would refer the Honourable Members to the assurances given by Members of Government in this connection during the debate.

(*c*) and (*d*). No.

SUB-POST OFFICES IN THE DEHRA DUN DIVISION.

401. ***Khan Bahadur Haji Wajihuddin:** (*a*) Has the attention of Government been drawn to the article published in the *Postal Advocate* December issue on page 8 (Urdu section)?

(*b*) Will Government please state the total number of the sub-offices in Dehra Dun Division in each District, Saharanpur, Dehra Dun and Mussoorie?

(*c*) Will Government please state the number of Muslims and Hindus placed in charge of the Sub Offices in Dehra Dun Division in each of the above Districts mentioned in part (*b*) separately?

The Honourable Sir Joseph Bhore: (*a*) Yes.

(*b*) and (*c*). The information has been called for and will be placed on the table of the House in due course.

NUMBER OF MUSLIM AND HINDU POSTMEN IN CERTAIN SUB-DIVISIONS.

402. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state:

(i) the total number of the postmen and inferior servants in Dehra Dun and Saharanpur Sub-Divisions (Dehra Dun Division);

(ii) the total number of Muslims and Hindus separately in each of the two cadres mentioned in part (*a*) in Dehra Dun and Saharanpur Sub-Divisions; and

(iii) the total number of Hindus and Muslims employed as postmen and inferior servants, permanently or temporarily, in Dehra Dun and Saharanpur Sub-Divisions during the last five years (each year separately)?

(*b*) Are Government satisfied that in making the appointments mentioned in item (iii) Government instructions regarding communal composition were adhered to by the appointing officers?

(*c*) If the reply to part (*b*) be in the negative, will Government please state whether the omission on the part of the appointing officers was noted by the authorities?

The Honourable Sir Joseph Bhore: (*a*), (i) and (ii). The information is being called for and will be placed on the table of the House when received.

(iii) Government do not propose to call for this information, as its collection would involve an expenditure of time and labour not commensurate with the advantage to be gained.

(*b*) Government have no reason to doubt that their orders are being carried out. The Honourable Member's attention is invited to the reply given by Sir Hubert Sams to Rao Bahadur M. C. Rajah's starred questions Nos. 930 and 931 in this House on the 24th September, 1931.

(*c*) Does not arise.

COMMUNITIES OF POSTMEN AND INFERIOR SERVANTS IN MUSSOORIE POST OFFICES.

403. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state the total number of the postmen and inferior servants in Mussoorie H. O. and its town sub-offices?

(*b*) Is it a fact that all the posts mentioned in part (*a*) above have been given to Hindus and not a single Muhammadan has been employed?

(*c*) If the reply to part (*b*) be in the affirmative, are Government prepared to take steps to see that due regard is paid to the communal composition by the authorities at the time of the season arrangements commencing from 1st April, 1932?

Mr. T. Ryan: The information asked for in parts (*a*) and (*b*) has been called for and a complete reply will be placed on the table of the House in due course.

APPOINTMENT OF A MUHAMMADAN AS TOWN INSPECTOR OF POST OFFICES, MUSSOORIE.

404. ***Khan Bahadur Haji Wajihuddin:** (*a*) Will Government please state when the post of a Season Town Inspector was sanctioned for Mussoorie H. O.?

(*b*) Is it a fact that since the post was sanctioned no Muhammadan has so far been allowed to act as Town Inspector, Mussoorie, and junior Hindu clerks have all along been acting?

(c) If the reply to part (b) be in the affirmative, are Government prepared to take steps to see that in the seasonal arrangements commencing from 1st April, 1932, this complaint is removed?

The Honourable Sir Joseph Bhore: (a) In April, 1927.

(b) The information has been called for and will be placed on the table of the House in due course.

(c) Does not arise; such appointments are not made on a communal basis.

DISSATISFACTION AMONGST RAILWAY STAFF OF THE HOWRAH GOODS SHED.

405. ***Mr. Lalchand Navalrai:** (a) Are Government aware of the dissatisfaction prevailing amongst the East Indian Railway staff of the Howrah Goods Shed Outward owing to the withholding of certain privileges which were being enjoyed by them so long?

(b) If not, do Government propose to enquire into the matter? If not, why not?

(c) If the reply to part (a) be in the affirmative, will Government be pleased to state what action they have taken in the matter?

Sir Alan Parsons: (a), (b) and (c). Government received a representation alleging certain grievances and purporting to have been signed by one of the Goods Clerks and by others of the Howrah Goods Shed. The representation was transferred to the Agent, East Indian Railway, who is the authority competent to deal with it and the Goods Clerk was informed of this. On receiving this intimation, he replied that he was not aware of having submitted any such representation.

GRIEVANCES OF RAILWAY STAFF OF THE HOWRAH GOODS SHED.

406. ***Mr. Lalchand Navalrai:** (a) Is it a fact that the grade increase of the staff of the East Indian Railway, Howrah Goods Shed Outward, is being withheld?

(b) Is it a fact that compulsory leave on half pay is being granted to the staff?

(c) Is it a fact that the Sunday allowance in lieu of presidency allowance of the staff is being stopped? If so, will Government be pleased to state the reasons for taking such action?

Sir Alan Parsons: With your permission, Sir, I propose to answer question Nos. 406 and 407 together. Government have no information concerning the matters referred to by the Honourable Member. They are within the competence of the Agent, East Indian Railway, to deal with and will be brought to his notice.

GRIEVANCES OF RAILWAY STAFF OF THE HOWRAH GOODS SHED.

†407. ***Mr. Lalchand Navalrai:** (a) Are Government aware that in meting out punishments to the East Indian Railway Howrah Goods Shed Outward staff different treatment is accorded between the Anglo-Indian and the Indian staff?

†For answer to this question, see answer to question No. 406.

(b) If not, do they propose to inquire into the matter? If not, why not? If the answer to part (a) be in the affirmative, will Government be pleased to state whether any action was taken against the officials concerned for showing racial bias? If not, why not? Do they now propose to take any action against them?

INJUSTICE IN RETRENCHMENT OF MEN OF ACCOUNTS AND AUDIT OFFICES.

408. ***Mr. Lalchand Navalrai:** Are Government aware that injustice is being done to the men of the Accounts and Audit offices under the Central Government in selecting men for being retrenched under the recent retrenchment scheme?

The Honourable Sir George Schuster: With your permission, Sir, I will deal with questions Nos. 408 and 410 together.

Enquiry is being made.

ORDERS REGARDING RETRENCHMENT OF STAFF.

409. ***Mr. Lalchand Navalrai:** (a) Is it a fact that Government passed orders that men with 25 to 30 years' service should first be retrenched and if by that method the full quota of the sum to be retrenched in an office be not reached, thereafter temporary men are to be retrenched?

(b) If the answer to part (a) be in the negative, will Government be pleased to place on the table a copy of the orders of Government that are being enforced in retrenching men?

The Honourable Sir George Schuster: (a) The position is not as stated. I would refer the Honourable Member to my reply to starred question No. 1215 asked by Mr. Jog on the 5th November, 1931. The general principles embodied in the instructions issued by Government, which are subject to the maintenance to the nearest practicable figure in each category of the ratio between the various communities represented by their present numbers, specify the order of selection for retrenchment as follows. First, officials volunteering to resign or retire; secondly, those whose work has been consistently unsatisfactory; thirdly,—and this category is divided into various classes—those who have reached the age of superannuation or have nearly completed their service; fourthly, those who have to their credit only short periods of service. Temporary staff are treated separately from permanent staff and as regards the main order of selection *inter se* on much the same lines. It must however be recognised that there are various kinds of temporary staff. As regards this temporary staff I would add this—that the general implication behind all the retrenchment orders is to execute them in the way which will produce the greatest economy compatible with the least hardship to individuals. For this reason, in the generality of cases, all temporary staff must first disappear before parallel permanent staff, to which they are supplementary, are retrenched.

(b) I would refer the Honourable Member to my answer to part (a) of Mr. Jog's question to which I have already referred.

MEN RETRENCHED IN ACCOUNTS AND AUDIT OFFICES.

†410. ***Mr. Lalchand Navalrai:** (*a*) Are Government aware that in several Accounts and Audit offices and other offices under the Central Government men with 2 to 10 years' permanent service are being retrenched, retaining higher salaried men with 25 to 30 years' service, who have earned full pension?

(*b*) If the answer to part (*a*) be in the negative, do Government propose to inquire into the matter? If not, why not?

(*c*) If the answer to part (*a*) be in the affirmative, will Government be pleased to state what action they have taken or propose to take to stop such treatment in retrenching men?

NON-RETRENCHMENT OF LOW-PAID CLERKS AND TYPISTS.

411. ***Mr. Lalchand Navalrai:** Do Government propose to issue a circular to all heads of departments and offices drawing their attention not to retrench low paid clerks and typists who have not earned any living pension of at least Rs. 40 per mensem? If not, why not?

The Honourable Sir George Schuster: No. Retrenchment are being effected wherever possible in all classes of Government servants and Government cannot agree to the exemption of certain grades if the posts held by them are capable of abolition.

RE-EMPLOYMENT OF MEN RETRENCHED FROM OFFICES UNDER THE CENTRAL GOVERNMENT.

412. ***Mr. Lalchand Navalrai:** Do Government propose to maintain a register of all retrenched men under the control of the Central Government including the offices under the Auditor General in India and to recruit such men, whenever vacancies occur in future till they are all provided with suitable appointments? If not, why not?

The Honourable Sir James Crerar: In so far as the clerical staff of the Government of India's offices at headquarters is concerned, it is proposed to maintain a register of suitable retrenched personnel of offices which recruit through the Public Service Commission and of offices which do not recruit through the Commission, but who are qualified for employment in the former offices. The claims of persons on the register to re-employment will receive careful and sympathetic consideration, but as the Honourable Member will no doubt realize, I cannot give the general assurance for which he asks since in filling vacancies due regard must be paid to the duties of the post and the qualifications required to fill it efficiently. I have not complete information regarding other services and offices, but am making enquiries and will intimate the result to the Honourable Member in due course.

INDEBTEDNESS AMONG RAILWAY EMPLOYEES.

413. ***Lieut.-Colonel Sir Henry Gidney:** (*a*) Are Government aware of the appalling condition of indebtedness which exists in the ranks of their servants, particularly among subordinate employees on the various railways?

†For answer to this question, *see* answer to question No. 403.

(*b*) Will Government please state what action they have taken or propose to take on the recommendations made by the Royal Commission on Labour in the matter of indebtedness among railway employees?

(*c*) Will Government please state whether they have taken any action to prevent the attachment of salaries of employees for meeting the employees' debts as recommended by the Royal Commision on Labour? If not, why not?

The Honourable Sir Joseph Bhore: (*a*) Government understand that the amount of indebtedness among certain grades of Government servants, and particularly subordinate railway employees, is considerable.

(*b*) and (*c*). The Royal Commission on Labour made a number of recommendations relating to indebtedness. Steps have been taken to bring to the notice of Railway Administrations and other employers such of the recommendations as require action on their part. The remaining recommendations mostly involve Central legislation. Some of these, including the one referred to in part (*c*) of the question, are under examination, but Government have not yet been able to formulate their conclusions thereon. The remaining recommendations will be taken into consideration as soon as possible.

INDEBTEDNESS AMONG RAILWAY EMPLOYEES.

414. ***Lieut.-Colonel Sir Henry Gidney:** (*a*) Will the Honourable Member in charge of Railways please state whether he received a scheme proposed by me with a view to combating the scourge of indebtedness among Railway employees?

(*b*) If the answer to part (*a*) be in the affirmative, will the Honourable Member please state what action he has taken or proposes to take on the scheme?

Sir Alan Parsons: (*a*) and (*b*). The Honourable Member apparently refers to a communication dated the 9th October, 1930, which he addressed to the Railway Board. The proposals in that communication have been examined by the Railway Board who intend to discuss them with the Agents of Railways in April next after which the Board will make their recommendations to Government.

ACCELERATED PROMOTION FOR OFFICERS OF THE INDIAN MEDICAL DEPARTMENT.

415. ***Lieut.-Colonel Sir Henry Gidney:** (*a*) Will Government please state whether accelerated promotion is granted to officers of the Royal Army Service Corps and Indian Medical Service who have either passed a high professional examination or undergone a special course of studies, irrespective of whether the officers concerned obtained any special qualification or degree in that particular subject?

(*b*) If the answer to part (*a*) is in the affirmative, will Government please state whether similar treatment is afforded to officers of the Indian Medical Department who have either obtained a British medical qualification in medicine or surgery or a specialist's qualification or have undergone a special course of study in public health, tropical diseases, etc., in India or abroad? If not, why not?

Mr. G. M. Young: (*a*) A Captain of the Indian Medical Service may receive six months' accelerated promotion provided he produces satisfactory evidence of progress in any branch of knowledge which is likely to increase his efficiency. This privilege is not granted to officers of the Royal Army Medical Corps.

(*b*) Officers of the Indian Medical Department do not receive accelerated promotion in the circumstances stated, but are exempted from appearing at the next departmental examination for promotion, and receive special consideration when vacancies occur on the civil side. Government do not consider it necessary to offer any further inducement to members of the Department to obtain special qualifications.

FLY NUISANCE IN NEW DELHI.

416. *Lieut.-Colonel Sir Henry Gidney: (*a*) Are Government aware of the fact:

(i) that the city of New Delhi, especially the Western Hostel, Queensway, is at present visited with a plague of flies; and

(ii) that this scourge is causing a great deal of sickness and inconvenience?

(*b*) Will Government please state whether they are prepared to take immediate action to remedy this nuisance and danger to public health?

Sir Frank Noyce: (*a*) (i). Yes.

(ii) Government have received no information that the nuisance from flies is causing sickness, but it is doubtless causing inconvenience.

(*b*) The matter is receiving the attention of the Medical Officer of Health, New Delhi.

Mr. B. Sitaramaraju: Have the Government considered the advisability of issuing an Ordinance against flies?

(No answer.)

Lieut.-Colonel Sir Henry Gidney: In regard to the health of New Delhi, will the Honourable Member inform the House whether Government has recently indulged in a retrenchment fox-trot and if the answer is in the affirmative will the Honourable Member inform the House "Where do the flies go in the winter time?".

Sir Frank Noyce: The answer to the second part of the question appears to be the Western Hostel.

As regards the first part of the Honourable Member's question, the General Purposes Sub-Committee of the Retrenchment Committee have recommended that the Assistant Public Health Officer should be retrenched. That recommendation is at present under the consideration of the Government.

Mr. Gaya Prasad Singh: Is there any connection between the visit of flies in the Western Hostel and the residence of the Honourable Members therein? (Laughter.)

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member inform the House whether there is a Municipality in the Imperial Capital city of New Delhi and whether there is a Health Officer attached to that Municipality?

Sir Frank Noyce: The Health Officer of New Delhi is also the Health Officer for the Delhi Province, including New Delhi, the Notified area and the rural part of the province. I may mention for the information of the Honourable Member that there is a Municipality in New Delhi and that there is little doubt that the fly nuisance has been caused to a large extent by the lack of adequate bye-laws to deal with cattle. The number of cattle in New Delhi is steadily increasing. The attention of the Local Administration will be drawn to the necessity for the framing of bye-laws to deal with the question of cattle at a very early opportunity.

Lieut.-Colonel Sir Henry Gidney: Does the Honourable Member consider this state of affairs satisfactory for this Imperial Capital? Is the Government aware of the fact that the dustbins are scarcely ever emptied, roads especially those least used are very often full of refuse, that complaints have frequently been made to the Municipality of which no notice has been taken and that every member of Government from the highest to the lowest servant possesses one, two or three cows whose excreta is thrown on the streets or used as fuel and that no precaution is taken to bury the excreta and that this nuisance is very noticeable at the various Tonga stands, especially the Tonga stand near the Western Hostel? That under such insalubrious conditions residents of New Delhi are dangerously exposed to epidemics of all kinds? Will Government state whether this is a fact and if it is what steps do they propose to take to remedy it especially with regard to the appointment of the Health Officer of New Delhi.

Sir Frank Noyce: Sir, I gather from the Honourable Member's statement that every member of the Government from the highest to the lowest has cattle in his compound. I can assure him that there is none in my compound. As regards the remainder of his question, I am thankful to him for bringing the matter to notice. The attention of the Local Administration will be drawn to it at once with a view to steps being taken to improve matters if, as I have no reason to doubt, the facts are as he has stated.

Dr. Ziauddin Ahmad: Has the Health Department of the Government of India made any research to find out the method for the destruction of flies?

Sir Frank Noyce: That is a question of which I should like to have notice.

THE INDIAN PARTNERSHIP BILL—*contd.*

Mr. President: Further consideration of the motion that the Bill to define and amend the law relating to partnership, as reported by the Select Committee, be taken into consideration.

Sir Lancelot Graham (Secretary, Legislative Department): Sir, my task appears to me to be a light one. I was expecting to hear more speeches this morning, and I would remind the Honourable Members that the last speech was delivered by the Honourable the Law Member,

[Sir Lancelot Graham.]

who with very great skill faced a fusillade of questions from Honourable Members seeking information about the Bill. I gather that those Honourable Members were fully satisfied from the mere fact that no more speeches are being made this morning. As regards my Honourable frined, Diwan Bahadur Harbilas Sarda, I think, without speaking unsympathetically, I would say that his speech would have been of more value on the motion that the Bill be referred to a Select Committee. It appeared to me to come rather late in the proceedings after the House was definitely committed to the principle of the Bill, including the registration on an optional basis of partnerships. I note that he was a little harsh on Government when he described our conduct as mean and deceitful and indulging in subterfuges. Sir, there are no subterfuges at all in our procedure, and our record is perfectly clear. We say that registration is optional, and at the same time we say quite plainly that there are advantages to be gained by registering and disadvantages in the event of not registering, so that there is no subterfuge about that, because in modern political parlance we have laid all our cards on the table. We have told Honourable Members exactly what the position will be if they register, and exactly what the position will be if they do not register, and I must resent the suggestion that we have been guilty of subterfuges and have behaved in a mean and despicable fashion. As regards my Honourable friend, Diwan Bahadur Rangachariar, he raised two points, and he is raising them again on amendments of which he has given notice and they will be dealt with on that occasion. I think the course of my Honourable friend Mr. Jog is clear: he should vote for the motion and move his amendment and hear what is to be said on the other side before, on these mere points of detail, he decides to wreck the Bill. I think no other points have arisen in the debate, and therefore I leave the motion before the House.

Mr. President: The question is:

"That the Bill to define and amend the law relating to partnership, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Clauses 2, 6 and 9 to 11, 11-A, and 12 to 18 were added to the Bill.

Mr. President: The question is that clause 19 stand part of the Bill.

Diwan Bahadur T. Rangachariar (South Arcot *cum* Chingleput: Non-Muhammadan Rural): May I ask for some information? Reading clauses 19 and 22 together, I wish to know whether it is a deliberate departure from the English law. In clause 22 all acts done or instruments executed should be stated to be on behalf of the firm in order to bind the firm, although under clause 19 a partner is the agent of the firm for the purpose of the business of the firm, and subject to the provisions of clause 22, the act of a partner which is done to carry on, in the usual way, business of the kind carried on by the firm, binds the firm. Clause 22 says: in order to bind a firm, an act or instrument done or executed by a partner or other person on behalf of the firm shall be done or executed in the firm's name, or in any other manner expressing or implying an intention to bind the firm. So that every act done will be

in the name of the firm. If my Honourable friend, Sir Hugh Cocke, does anything in the usual course of business as the partner of a firm, in order to bind the firm, he should do so in the name of the firm or in any other manner expressing or implying an intention to bind the firm. Apparently if a man is the managing partner, or if he is an agent, he is ordinarily doing business. If he goes to a firm or place of business and orders goods in the usual course of business, he has to say under clause 22, "I am doing this on behalf of the firm". Apparently that seems to be the necessary result of the language of clause 22. Everything he does, every single act he performs should be specifically stated to be on behalf of the firm. My Honourable friend, Sir Hugh Cocke, being a member of a partnership, if he goes to a firm and orders goods, he will have to tell them although they know perfectly well that he is the managing partner of the firm, he has to tell them: "I do this on behalf of my firm", although he may have done thousands of cases like that. Apparently clause 22 makes it compulsory in every act although clause 19 contemplates acts done in the usual course of business, still every time he will have to say, "I do so on behalf of the firm". I do not know whether this is the real intention of the clause.

The Honourable Sir Brojendra Mitter (Law Member): Sir, may I explain this? If the Honourable Member had looked at the notes to clause 22 annexed to the Bill when introduced, he would have found the explanation:

"Clause 22 represents section 6 of the English Act but is expressed differently. The English model says that certain acts if done in a certain way bind the firm. This clause says that those acts do not bind the firm unless they are done in a certain way. This seems to be the intention of the English model and to be the law in England."

Then we give reference to the pages of Lindley and Underhill. Lindley's criticism is this, that the positive way in which the English section is framed is not so satisfactory as the negative way would be, and in pursuance of Lindley's observations, we have redrafted the same thing in the present form. That is the only difference between the English law and our law. Clause 22 deals with the mode of doing an act to bind the firm. Clause 19 is the general clause. It says that a partner is an agent of the firm. But when can a partner as agent of the firm bind the firm? It is only when he acts in a particular manner and what that manner is is set out in clause 22 which says:

"In order to bind a firm, an act or instrument done or executed by a partner or other person on behalf of the firm shall be done or executed in the firm name, or in any other manner expressing or implying an intention to bind the firm."

One is substantive law that a partner is an agent and the other is the mode in which the agent has to work so as to bind the firm. That is the explanation.

Diwan Bahadur T. Rangachariar: In stating the substantive law my Honourable friend will notice that it is subject to the provisions of clause 22. Therefore he can only do so in the manner provided by clause 22. That is my difficulty.

[Diwan Bahadur T. Rangachariar.]

Till now, Sir, the law has been that a minor has to do so within a reasonable time. Now the Select Committee has altered that provision to a definite period of six months after attaining majority. I quite agree with the principle, and it is a wholesome departure which the Select Committee have made, but they have overlooked one little point which may work a little hardship in certain cases. There may be cases where an infant has been admitted to the benefits of a partnership, and there may be cases where the partnership is such that it gives no profits, or no profits, even if they have been earned, have been given to the infant, or such profits may have been merely carried on in the books of the firm, and the infant may not have been aware that he had been admitted to the benefits of partnership either. If it stood as before, *i.e.*, "within a reasonable time", that imports knowledge on his part that he had been admitted to the benefits of partnership, and then of course no court will say that he has not given notice within a reasonable time if he does so as soon as he acquires knowledge. But it is not inconceivable that minors, infants, may have been admitted without their knowledge by their uncles or other near relations to the benefits of a partnership, and the minors may have had no knowledge of it at all, in which case we require him to give notice at any time within six months of his attaining majority. It is an absolute rule as it is enacted, and it may work a hardship in cases where the infant is not aware of it. Therefore, I propose that the clause to sub-clause (6), namely:

> "In sub-clause (6) of clause 30 after the word 'majority' the words 'or of his knowledge that he had been admitted to the benefits of a partnership whichever date is later' should be added."

That will provide for such cases as I have in mind which are not unlikely. Therefore, as we are here to do justice, we should not do injustice to a minor and make it obligatory on him to give notice whether or not he was aware of it, because by his failure to give notice, he at once becomes a partner of the firm, and will be saddled with all the responsibilities and liabilities. Therefore, such a thing will work hardship in such cases. I have also added a clause if a man wants to take advantage of such a provision, namely that he had no knowledge at all, that:

> "For the purpose of this sub-clause the burden of proving that the person who was a minor had no knowledge of his having been admitted to the benefits of a partnership shall be on the person claiming the benefit of extended period of limitation beyond six months of the minor's attaining majority."

Therefore, I throw the burden of proof on him; he has to show that he had no knowledge, because ordinarily one would expect that he had knowledge in ordinary cases, but there may be cases in which he had no knowledge, and in such cases the provision I have made will be ample. No injustice is done to any party. I am sorry I was not able to discuss this amendment with the Law Member yesterday as I was not able to meet him, and I do think that it will be a case where hardship may be avoided by accepting this clause. So I move my amendment.

The Honourable Sir Brojendra Mitter: I think, Sir, that Sir Lancelot Graham should accept this amendment, subject to drafting changes.

Sir Lancelot Graham: Sir, the position as regards that is, that although the Honourable Member had put in two amendments last night, he has supplemented those amendments at a somewhat late stage, and I quite agree that he has not tried to vex us; any way he would not be himself if he were to do it; but I would accept this amendment provisionally, that is to say, it is quite possible to accept this amendment, but we may have to redraft it in the Council of State and bring it back here. But just as a small precaution I might suggest the addition of the word "obtaining" before "knowledge". If the Honourable Member will accept this insertion of the word "obtaining" before the word "knowledge", we have no objection to accepting his amendment. The words in his amendment are "or of his knowledge" and so on. If he would accept the insertion of the word "obtaining" before the word "knowledge", we will be in a position to accept the amendment.

Mr. President: Does the Honourable Member agree?

Diwan Bahadur T. Rangachariar: Yes, Sir; I quite agree.

Mr. President: The amendment is amended by adding the word "obtaining" between the word "his" and "knowledge".

Mr. C. C. Biswas: Sir, I do not quite appreciate why Sir Lancelot Graham and the Honourable the Law Member have accepted this amendment. Is it intended to provide for cases where a minor is admitted to the benefits of a partnership without his knowledge or in spite of him? Now, suppose partners A, B and C agree among themselves that X, a minor, shall be admitted to the benefits of a partnership without the knowledge of X or of his guardian; everything is done behind his back. In such a case is it suggested that under the Bill as it stands the minor would be liable, even if he does not give notice?

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Yes.

Mr. C. C. Biswas: I should like the Honourable the Law Member kindly to explain this point, as to how it will be possible for A, B and C to admit X to the benefits of a partnership without X wishing it or anybody wishing it on his behalf, or in spite of X's protest. Although X is a minor, he might say he would not like to be admitted to the benefits of a partnership. Minority extends to 18 and in some cases to 21. Up to that stage it may be quite competent for a person to have sufficient knowledge to be able to decide what he should do. Suppose at the age of 17 a minor says that he does not want to be admitted to partnership. Is it suggested that such a minor would be liable? If that be so, I quite appreciate the object of the amendment that is before the House. Otherwise I do not see the point. On the other hand, the introduction of this amendment will suggest that the Bill does contemplate a position like that, that it is possible for A, B and C by their concerted action to thrust a benefit upon X, although X does not want it and X's guardians do not want it. I do not think that is a position which the framers of the Bill did contemplate or should contemplate. If that be so, the matter ought to be made clearer, not merely by this amendment, but by expressly providing that it will be open to a minor, where a minor has been admitted to the benefits of a partnership without his knowledge or consent or the knowledge or consent of his guardian, at any time to repudiate, because it would be an act of fraud on him, and there is no

The Honourable Sir Brojendra Mitter: If he does in that manner, then the firm will be bound.

Mr. President: The question is that clause 19 stand part of the Bill.

The motion was adopted.

Clause 19 was added to the Bill.

Mr. President: Clause 19A.

Sardar Sant Singh (West Punjab: Sikh): Sir, referring to the phraseology used in clause 19A, we find that the words used are:

"Subject to the provisions of section 22, the act of a partner which is done to carry on in the usual way, business of the kind carried on by the firm, binds the firm."

Here the expression used is "in the usual way" while in clause 23 the expression used is the same as was used in the Indian Contract Act:

"An admission or representation made by a partner concerning the affairs of the firm is evidence against the firm, if it is made *in the ordinary course of business.*"

May I know if, in using these two terms, it is intended to create some distinction between these two terms, or do they carry the same meaning? If they carry the same meaning, will it not be advisable to retain the expression which is already used in the Contract Act, instead of introducing a new expression?

The Honourable Sir Brojendra Mitter: There are two entirely different conceptions,—they are not the same. Under clause 19A the carrying on of the business is by the firm. That is the usual way of carrying on business. But in clause 23 we are talking of the agency of the partner. "Admission by a partner" binding the firm involves that he must make the admission in the ordinary course of business and not otherwise. Clause 23 deals with the act of the agent and clause 19A deals with the act of the firm.

Mr. President: The question is that clause 19A stand part of the Bill.

The motion was adopted.

Clause 19A was added to the Bill.

Clauses 20 to 24 were added to the Bill.

Mr. President: Clause 25.

Sardar Sant Singh: Sir, clause 25 reads like this:

"Every partner is liable, jointly with all the other partners and also severally, for all acts of the firm done while he is a partner."

Here the liability of the individual partner is confined to the acts done by the firm and not by the individual partner of the firm. What I want to understand is, does this mean that the individual partner is not liable for the acts of his co-partners though done in the usual way? Instead of the phrase "for all acts of the firm", will it not be better to say "for all acts of the firm or of the individual co-partners"?

Mr. C. C. Biswas (Calcutta: Non-Muhammadan Urban): Sir, if my friend will refer to the definition clause he will find "act of a firm" defined there.

The Honourable Sir Brojendra Mitter: Sir, may I explain? We say here "act of the firm" and not "by the firm". If we had said "act by the firm" that might have excluded an act by any particular partner. But it is an act "of the firm" and the expression "act of the firm", as my friend Mr. Biswas has just now pointed out, is defined in the definition clause as:

"any act or omission by all the partners, or by any partner or agent of the firm which gives rise to a right enforceable by or against the firm."

So in clause 25 the expression "act of the firm" is used in the sense of the definition.

Mr. President: The question is that clause 25 stand part of the Bill.

The motion was adopted.

Clause 25 was added to the Bill.

Clauses 26 and 27 were added to the Bill.

Mr. President: Clause 28.

Sardar Sant Singh: Sir, in sub-clause (2) of clause 28 it is said:

"Where after a partner's death the business is continued in the old firm name, the continued use of that name or of the deceased partner's name as a part thereof shall not of itself make his legal representative or his estate liable for any act of the firm done after his death."

Now this "act of the firm" may mean mortgaging or alienating the property or any act in order to wind up the firm or to settle the accounts of the firm or to carry on the dissolution of the firm. Will that be included in this expression or does it only mean the liabilities of the firm incurred after the death of the partner?

The Honourable Sir Brojendra Mitter: Sir, the definition clause makes it quite clear. An "act of a firm" means "any act or omission by all the partners, or by any partner or agent of the firm which gives rise to a right enforceable by or against the firm"; so unless it be such an act, it would not be an act of the firm.

Mr. President: The question is that clause 28 stand part of the Bill.

The motion was adopted.

Clause 28 was added to the Bill.

Clause 29 was added to the Bill.

Mr. President: Clause 30.

Diwan Bahadur T. Rangachariar: Sir, I have an amendment to sub-clause (6) of clause 30. I am sorry I could not give notice earlier. That sub-clause provides:

"At any time within six months of his attaining majority, such person may give public notice that he has elected to become or that he has elected not to become a partner in the firm....."

[Mr. C. C. Biswas.]

authority in any body of persons to perpetrate such an act against his interests. This clause as it is framed, taken along with the rest of the Bill as I read it, contemplates that a minor is to all intents and purposes treated as a partner: but because the Judicial Committee has held in 49 Calcutta,—Sannyasicharan's case—that a minor, because he cannot enter into a contract, cannot be regarded as a partner, partnership implying agreement, it is said that a minor, although not a partner, may still be "admitted to the benefits of partnership". That is the object with which this expression is used, but to all intents and purposes as I have said, he is regarded as a partner. There is the saving of course that he will not be personally liable in certain circumstances; but I do not think it is suggested or intended, or it was suggested or intended at any stage by any one, that a minor should be treated as a partner or should be admitted to the benefits of partnership, even if he did not wish it or even if his guardians did not want it. So I think if there is this danger, it ought to be clearly safeguarded against.

The Honourable Sir Brojendra Mitter: May I explain the position? In the rare case contemplated by Diwan Bahadur Rangachariar, when a minor is admitted to the benefits of a partnership without his knowledge of it, some provision like that will be an additional safeguard to him. With regard to Mr. Biswas' point, probably he has overlooked the fact that when a minor is admitted to the benefits of a partnership, it is only his interest in the firm which is liable—he is not personally liable during his minority. There is no occasion to give him a right to repudiate, during his minority, because he is not liable. His liability comes in six months after he attains majority, if he does not give notice in the terms of clause 30. It may conceivably happen that four persons are carrying on a business: one of them dies leaving an infant son, and the surviving partners feel that the benefits of the one-fourth share which the deceased had should be given to the minor, without the minor knowing anything about it. The minor may be wealthy and year after year the profits are credited to an account started in the name of the minor without the minor knowing anything about it. The minor attains majority and after six months, he is automatically saddled with personal liability for the antecedent debts of the firm. In that rare case the minor, I think, is entitled to some protection. Diwan Bahadur Rangachariar's amendment does not introduce any complications but affords an additional protection to the minor, who had no knowledge.

Mr. President: The question is:

"That in sub-clause (6) of clause 30 after the word 'majority' the words 'or of his obtaining knowledge that he had been admitted to the benefits of a partnership whichever date is later' be inserted."

The motion was adopted.

Diwan Bahadur T. Rangachariar: I have already mentioned, Sir, the reasons for my moving this amendment. I formally move:

"That to clause 30 the following new sub-clause be added:

'(6) (a). For the purpose of this sub-clause the burden of proving that the person who was a minor had no knowledge of his having been admitted to the benefits of a partnership shall be on the person claiming the benefit of extended period of limitation beyond six months of the minor's attaining majority'."

Sir Lancelot Graham: On a very small point of drafting, Sir, would you kindly substitute the words "For the purpose of sub-section (6)" for the words "For the purpose of this sub-clause"? The renumbering of the sub-sections will be done on a general motion which will be moved on the third reading; but this actually comes into the text.

Diwan Bahadur T. Rangachariar: I accept the suggestion.

Mr. President: The question is:

"That to clause 30 the following new sub-clause be added:

'(6) (a). For the purpose of sub-section (6) the burden of proving that the person who was a minor had no knowledge of his having been admitted to the benefits of a partnership shall be on the person claiming the benefit of extended period of limitation beyond six months of the minor's attaining majority'."

The motion was adopted.

Diwan Bahadur T. Rangachariar: Sir, I beg to move the next amendment:

"That in sub-clause (7) (a) of clause 30 the words 'but he also becomes personally liable to third parties for all acts of the firm done since he was admitted to the benefits of partnership' be omitted."

This is not such an easy matter as the former amendment, and so I shall have to explain at some length the necessity for this provision which I am making. Honourable Members will notice that under sub-clause (3) of the same clause when a minor is admitted to the benefits of a partnership, sub-clause (3) provides that such minor's share is liable for the acts of the firm, but the minor himself is not personally liable for any such act. That is a sound principle. To the extent of his property in the firm, to the extent of any profits which he may have derived from the firm when a man is admitted to the benefits of the firm, certainly it is right and just that he should be saddled with liability. That is the general law everywhere. Now we come to the case of a man after he attains majority and he elects to become a partner. It may be that when a person was an infant only, six months or two years old, he was admitted to the benefits of a partnership by an uncle of his. This infant or minor may have been sent to England for education, he may have received his education there, and at the age of 18 or 21, as the case may be, he has to elect whether he will become a partner or not. In the meanwhile, the business has been going on. Of course, he is given the right of access, not to all the books of the firm. Honourable Members will notice that the Select Committee have restricted the scope of access only to accounts and not to all the books of the firm. The minor has got a right to look into the accounts of the firm and not into all the books of the firm. It is only right, he is not a partner, and he is not entitled to look into all the books of the firm and therefore the right is limited only to looking into the accounts of the firm. I am not a business man myself, but I have had to deal with cases on behalf of other persons where business matters are concerned. I know also the habits of my people. They take many things on trust, they do not take the trouble to go into all the details, they take statements on trust, they do not go into the books and find out for themselves what is the liability they are saddling themselves with by electing to become a partner. I quite recognise that under

[Diwan Bahadur T. Rangachariar.]

sections 247 and 248 of the Contract Act as it stands, it is open to the contention—I do not know that any case has so decided—it is open to the construction, that the law as it at present stands makes a minor personally liable also for all acts of the firm done since he was admitted to the benefits of the partnership. But I am not aware of any case where the law has been so enforced. It is certainly not the English law. Under the English law an infant can be a partner of a firm, that is not our Indian law. Although he is a partner of the firm under the English law, the infant after he attains majority is liable only for all liabilities incurred after he attains majority, for all acts done after he attains majority. To the extent of his property in the firm he is liable, but his personal liability arises only after he becomes a major—because the Indian law is even more severe in respect of infants than the English law. The infant is not entitled to enter into any contract, and in fact, in the case in 30 Calcutta it was declared that contracts by a minor are void altogether. Therefore, a minor is more protected than in England, and I think we ought to see what justice is there in imposing this personal liability, which means and includes that not only can you send him to a civil prison for not paying the debt, but you can also take hold of his other properties unconnected with the firm. You may conceive of cases, for instance, where the minor may have been admitted to a hundredth share in a partnership, and after he becomes a major and elects to become a partner, what happens? He may have received Rs. 500 in all these years in the shape of profits, but the liabilities of the firm when investigated thoroughly may amount to thousands of rupees, and by this man electing to become a partner, you impose a personal liability on him, because it is joint and several liability under the Bill. Under clause 25 every partner is liable, jointly with all the other partners and severally for all acts of the firm done when he is a partner. So that it is a joint and several liability which will be imposed on him. He may have other property of his own which the creditor may seek to seize in enforcing this liability. My Honourable friend the Law Member suggested the other day that he has six months within which he could examine the books and find out whether he should become a partner or not. In some cases he may say, "Very well, I close my accounts with the firm", and some time afterwards he may apply to be made a partner which he cannot become unless the other partners agree. The partnership may have been a losing concern for years together, and at the time he chooses to become a partner, as it happened during the War—many of these firms which were not paying anything began to pay, and the man may have been dazzled by what happened during the time when he is asked to decide whether he will elect to become a partner or not. He may find it so dazzling and attractive that he may decide to elect to become a partner. So that, after all, you must do justice between the partners. Third parties enter into a contract with the firm, knowing that a particular person is not a partner at all. He only elects to become a partner later on. At the time third parties enter into contracts—the persons who deal with the firm deal only with the credit which A, B, C who are already partners command. This D becomes a partner only afterwards. This gives retrospective additional credit to the persons dealing with the firm by throwing this personal liability on the minor who elects to become a partner. There is no justice in giving this retrospective credit to third parties. They were content to deal with the firm relying on the credit of the people who were then partners of the firm. My Honourable friend spoke of compensation, incidental liabilities which he has to take. I quite agree that he ought to take incidental liabilities. What are the incidental liabilities when you become a partner, when you have been admitted to the benefits of a partner? The incidental liability can only extend to his share in the partnership property, to the share which he may have received in the profits of the firm. Beyond that where is the incidental liability? Incidental liability cannot extend beyond that, and therefore this is imposing on him an unjust obligation for which I can find no justification whatever. Of course, a careful man who can go into the whole of the accounts, say, for 20 years,—he may have to examine the accounts and see what liability he is really taking, and all that. There may be things which may be sprung upon him. There may be contracts which may end in a loss afterwards. Therefore, I consider that this additional advantage given to third parties is uncalled for, likely to be unjust to the minor, and imposing on him an obligation for which there is no necessity at all. Of course, after he becomes a partner, he becomes a partner liable like the rest. We are now dealing with what had happened before he became a partner. The essential point to remember in dealing with this question is this, that before he became a partner certain things had been done and certain liabilities had been incurred, and now why give retrospective operation of liabilities to this man, a new partner? When he becomes a partner he becomes liable only for acts done after he joins as a partner. Similarly also is the case with minors. If he has received any benefits out of the firm, to that extent he must reimburse, he must pay back what he has received in order to pay off the debts of the firm. To that extent the partners will be entitled to seize hold of the whole of his share in the partnership property, the whole of the profits which he had earned. To that extent I consider it is a just claim, but to go and lay hold of his other properties and of his person for past liabilities incurred at a time when he was an infant for which he was not personally liable, seems to me to be unjust, uncalled for, unnecessary, even in the interests of third parties on whose behalf this provision is herein made. I think it is not a right obligation which has been imposed. I quite concede it is a matter possibly open to construction under section 248 of the Indian Contract Act as it stands. The law at present imposes that liability. Now, that we are modifying the law, let us see what justice there is even if that is the law. I know no case in which retrospective obligation like this has been imposed, but now you make it clear by a special provision saying that when he becomes a partner he is liable to third parties for all acts of the firm done since he was admitted to the benefit of partnership. The benefit may be infinitesmal, the liability may be very large, and I do submit that there is no justice in this, and therefore I move that all these words be omitted.

12 NOON.

The Honourable Sir Brojendra Mitter: I ask the House not to accept this amendment. It is a matter of vital principle, and I shall deal with the Diwan Bahadur's points both on the basis of law and of equity. He has drawn a doleful picture of the minor's plight when on attaining majority he joins the firm as a partner. Let us deal with it firstly on the basis of law. One of the principles which we in the Special Committee and in the Select Committee kept steadily in view was that no change should be introduced unless called for. Now, Sir, what is enacted in

[Sir Brojendra Mitter.]

this sub-clause has been the law of this country for 60 years, and no complaint, to my knowledge, has ever been made that this clause operates harshly. It only re-enacts section 248 of the Indian Contract Act which was passed in 1872. The section says this:

"A person who has been admitted to the benefit of partnership under the age of majority becomes on attaining that age liable for all obligations incurred by the partnership since he was so admitted unless he gives public notice within a reasonable time of his repudiation of the partnership."

The Diwan Bahadur himself admitted that, notwithstanding his extensive practice, he had not come across any case of hardship. If a law has been in operation for 60 years without causing any hardship why change it?

Diwan Bahadur T. Rangachariar: You are now following the English law.

The Honourable Sir Brojendra Mitter: I am coming to the English law. The English law with regard to minors is quite different from the Indian law because in the English law a minor may become a partner. Under the Indian law, section 11 of the Contract Act says that a minor may not be a partner. There is, thus, a vast deal of difference between the Indian law and the English law. Now, look at the alleged injustice of the provision. Where is the injustice? The minor is admitted to the benefits of the partnership. He has access to the accounts of the firm. He can take copies of the accounts of the firm. On attaining majority, he gets six months to make up his mind, with full knowledge of the accounts. If at the end of six months, he makes up his mind to join the firm as a partner, he joins the firm with his eyes open, knowing what the liabilities of the firm are, knowing what obligations he is incurring. If that be so, where comes the necessity of extending protection to him? I can well understand protection to a minor, but the minor is no longer entitled to protection when he has attained majority. He has had full opportunities to examine his position, and he joins the firm with eyes open and therefore there is no need to give him further protection. Then, the Diwan Bahadur said it was unjust Why should it be unjust when during his minority he incurred no obligation whatsoever? He did not incur any of the obligations of a partner during his minority. Partners have to give their time, labour and skill to the firm. Partners have to do various other things under the law. The minor is excused all that. Nevertheless all through his minority he was getting the benefits of the partnership. That being so, he was in a much better position than an adult partner. When he attains his majority, he chooses to become a partner with full knowledge of all the facts. On the ground of equity, therefore, I do not see any injustice in adhering to the old law, which has obtained in this country for 60 years.

Mr. President: The question is:

"That in sub-clause (7) (*a*) of clause 30 the words 'but he also becomes personally liable to third parties for all acts of the firm done since he was admitted to the benefits of partnership' be omitted."

The motion was negatived.

Clause 30, as amended, was added to the Bill.

Clause 31 was added to the Bill.

Mr. President: Clause 32.

Diwan Bahadur T. Rangachariar: As Honourable Members will notice, clause 32 deals with the retirement of partners, with the consent of other partners. Sub-clause (*3*) of that clause runs as follows:

"Notwithstanding the retirement of a partner from a firm he and the partners continue to be liable as partners to third parties for any act done by any of them which would have been an act of the firm if done before the retirement until public notice is given of the retirement."

Third parties dealing with a firm are not affected by the retirement of a partner unless they had knowledge of the retirement of the partners. That is the principle but this law as now sought to be framed gives him more than that protection. Now, as Honourable Members will see, public notice is given in a particular way, by a gazette notification, and also a notification in a vernacular paper. Under the English law, the retiring partners continue to be liable until third parties have notice—not public notice. This corresponds to section 36 of the English Act, under which, until he has notice, the liability continues. The moment he gets notice of it, the liability ceases. Notice may be in any way—by knowledge acquired, by writing, by speaking, by various ways,—and one of the clauses provides, as a safeguard, that although he may have no individual notice, a public notice shall be deemed to be a notice. That is the English law. If a man gives public notice in the London or Edinburgh or Dublin Gazette, it shall be deemed to be notice although he may have no individual notice. What my Honourable friend proposes is that even if a man has notice, even if it be his own brother who has retired and he knows that from the moment of his retirement, until public notice is given, the liability continues. That seems to be quite uncalled for. When they know that such and such partners have retired, why go on imposing on them this benefit of saying that, notwithstanding your knowledge, until public notice is given, you shall have the advantage? I do not know why they do it: and until therefore a man has notice, a public notice shall be deemed to be a notice to everybody; but if a man has otherwise knowledge of the retirement, why should he have this benefit? Therefore, I think it is a departure from the English law which is uncalled for, and therefore I move, Sir:

"That in sub-clause (*3*) of clause 32 after the words 'before the retirement' the words 'until they have knowledge of, or' be inserted,"

because if they have knowledge of the retirement, then there is an end of it until that moment. That knowledge may be obtained by notice, individual notice or otherwise, and therefore, I think the object of the Bill would be best served, and it would be in keeping with section 36 of the English Act and certainly with common sense that a man who has knowledge should not be protected and given an extended period of protection even if he has knowledge until that public notice is given. The amended sub-clause would then read as follows:

"Notwithstanding the retirement of a partner from a firm, he and the partners continue to be liable as partners to third parties for any act done by any of them which would have been an act of the firm if done before the retirement, until they have knowledge of, or until public notice is given of the retirement: . . . . ."

Then I also want to add at the end of the foregoing amended sub-clause the following words: "whichever is the earlier date"; that is my next amendment:

"In sub-clause (*3*) of clause 32 after the words 'public notice is given of the retirement', the words 'whichever is the earlier date' be added."

[Diwan Bahadur T. Rangachariar.]

If the date of the notice is earlier, that will then prevail: whichever is the date shall prevail, so that he will have the advantage of imposing the liability on all partners whether they have retired or not till he has knowledge either by means of public notice or his own knowledge of the retirement. That is the object of my amendments, and I hope the Honourable Member will accept them.

The Honourable Sir Brojendra Mitter: Sir, I ask the House not to accept this amendment. I stated a little while ago that one of the principles which we have kept steadily in view was to adhere to the existing law if the existing law had operated without hardship. Another principle which we also kept in view was to minimise litigation. Now, the addition of these words will open the floodgates of litigation. I shall explain how. There is no doubt that we have departed from the English law, and why we have done so is fully explained in the Notes to the Clauses. This is what we say:

"The clause covers the liability of the retiring partner for acts of the firm and the liability of the firm for acts of the retiring partner. As regards giving notice to customers, the English law is that separate notices must be given to old customers but public notice to new customers is sufficient. This may be a serious undertaking for a partner leaving a firm which deals with numerous customers in India, and we propose to dispense with separate notices to old customers and to make public notice sufficient in all cases."

What would be the effect of this amendment? The Diwan Bahadur wants to stiffen the law in favour of the third party. The public notice as described in section 71 is wide enough for all the needs of protection. It says this:

"A public notice under this Act is given—

(*a*) where it relates to the retirement or expulsion of a partner from a registered firm, or to the dissolution of a registered firm, or to the election to become or not to become a partner in a registered firm by a person attaining majority who was admitted as a minor to the benefits of partnership, by notice to the Registrar of Firms under section 62, and by publication in the local official Gazette and in at least one vernacular newspaper circulating in the district where the firm to which it relates has its place or principal place of business, and (*b*) in any other case, by publication in the local official Gazette and in at least one vernacular newspaper circulating in the district where the firm to which it relates has its place or principal place of business."

All that we want is this, that if a partner who is retiring or who has retired, wants to avoid a liability incurred subsequent to his retirement, all he has got to do is to give public notice. The Diwan Bahadur says, "Well, what about those who have got actual knowledge of the fact?" We say, "Well, we do not care whether the man has got actual knowledge or not; the man who wants to avoid a liability must do something, he must take the trouble and give public notice." If he does that, nothing further is required. If you introduce this element of knowledge, then in every case an issue will arise. The Diwan Bahadur's proposal is to insert the words "Until they have knowledge of or until public notice is given". Therefore, public notice need not be given, and the issue will be, "Had that man knowledge?". There will be perjured evidence on both sides—a thing which we want to avoid. I submit that the House should not accept this amendment which will not improve the position of anybody; on the contrary, it will introduce an element of litigation which is avoidable.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Sir, I support the amendment. My Honourable friend, the Diwan Bahadur, made his position quite clear, namely, the object with which he has moved his amendment, and I am afraid the Honourable the Law Member has not met the objection put forward by him. If a partner retires and the question arises how far he will be liable for acts of the firm after he has retired, then, if a third party goes on dealing with the firm after the partner's retirement, if he has no notice that the man has retired, how can he in conscience hold that man liable knowing that he was dealing with a firm of which this man was no longer a partner? The public is entitled to hold every partner in the firm liable until they have notice that such and such man no longer belongs to that firm. That is the well established principle of the English law. Now, if public notice is given by presumption of law, that becomes notice to all. Then, no doubt, anyone dealing with the firm after retirement of the partner who has given public notice of the fact of his retirement cannot turn round and say that he will hold that partner liable. Supposing public notice is not given, but the third party dealing with the firm knows in fact that the man has retired . . . .

The Honourable Sir Brojendra Mitter: We want to avoid that issue of knowledge.

Sir Abdur Rahim: Why should it be so? Supposing it is proved, as Diwan Bahadur Rangachariar has put it, that a brother knows that his brother has retired, why should he hold him liable for dealing with a firm when he is dealing with a firm of which he was a partner but from which to his knowledge he has retired? There is no sense of justice in that. This goes far beyond what is the established law in England in this case as well as in similar cases. It is not justice; it is injustice. I submit the amendment of my Honourable friend is perfectly right and just and I think the Government should accept it.

Sir Hari Singh Gour: Sir, I also rise to support the amendment on the following grounds. Honourable Members, if they turn to section 36 of the English Partnership Act of 1890, will find that the language of that section is perfectly clear and free from ambiguity. It says:

"Where a person deals with a firm after a change in its constitution, he is entitled to treat all apparent members of the old firm as still the members of the firm until he has notice of the change."

And then comes the next clause which lays down as to how such notice can be given by publication in the London Gazette and so on.

The Honourable the Law Member will find, if he does not accept this amendment, that there will be one set of laws in England and another set of laws in this country. Now, it is conceivable that a firm may consist of partners who live both in England and in India. As a matter of fact, such partnerships are not unknown. And if a partner was to retire in England, the mere fact that he has given notice—not the public notice but given notice—would immediately determine his liability as a partner. But the very same partner or another partner in India exactly in similar circumstances will continue to be liable though he may have given notice of the same kind; indeed the notice that he may have given may be a

[Sir Hari Singh Gour.]

duplicate notice of the one which his Solicitor in England had issued for the information of the public at large. But because of the rigidity of the law in this country, that notice would not be sufficient. Now, I submit that the law of partnership in this country should, as far as possible, assimilate the general principles of the English law, so that there may be no disparity between the English law of partnership and the Indian law of partnership. Honourable Members who have no acquaintance with company law and with the Negotiable Instruments Act will find and the Honourable the Law Member will admit that fact, that in all these domains of company law and negotiable instruments, the laws of the two countries are as similar as they possibly can be. The law of partnership stands on the same footing, and therefore, I think that we should not make a departure from the English law. There is really no reason at all why there should be a departure. Now, the Honourable the Law Member is perfectly right when he says that cases are conceivable if we were to add the word "knowledge" but I would prefer to follow the English law and not add the word "knowledge" but "until he has notice of the change". That is the language I would suggest. I would add another clause saying that notice given in the official Gazette and so on in accordance with the provisions of the section will be deemed sufficient.

The Honourable Sir Brojendra Mitter: If my learned friend will excuse my interruption: if notice is to be given, what is the objection to a public notice?

Sir Hari Singh Gour: The point is this and my Honourable friend knows it as fully as I do, that the word "notice" under its definition in the Transfer of Property Act and elsewhere means not merely a formal written notice, but also it means the conveyance of knowledge otherwise. That is the meaning. If the knowledge of a certain fact, namely, that a partner has retired, has been communicated to the other party, then in the eye of the law, both English and Indian, it amounts to notice as it is defined in the Transfer of Property Act. Therefore, my learned friend has for the moment forgotten that principle of Indian law. Notice is only a technical term and it implies conveyance of knowledge, of information, either directly or indirectly received, or even the information which a party was bound to inquire into and which he has by his negligence failed to obtain. This is the meaning of the word "notice" under the Indian law as well as the English law. It is a word which has very definite connotations both in the English and the Indian law. But let us not quarrel about that. We are here dealing with a principle, and if that principle is accepted, I have not the slightest doubt that the Honourable the Law Member will be able to reduce it to a suitable draft. It matters little whether he calls it "knowledge" or follows the terminology of the English Act and uses the expression which is there used, *viz.*, "He has notice of it". But the point I am making and the point which, I think, the Honourable the Mover of this amendment has made out is this. You have got, say, four partners in a firm. Two of them are resident in England and the other two are resident, let us say, in Calcutta. One of the partners in England gives notice under the English Partnership Act—and we will say that the partnership is registered both in India and in England, but that is a technical matter which need not trouble us—but it is not a public notice. He sends a letter to all the partners and says that from this

moment he does not belong to that firm. That will determine the partnership so far as the English law is concerned. But that very letter which was held to be sufficient in England would be insufficient in Calcutta because the formalities of a notice under the provisions of section 71 have not been gone through. That is a dissonance between the English law and the Indian law which I deprecate. The Honourable the Law Member will find a discussion of this very subject at page 82 of Lindley on Partnership. This is what was laid down by the House of Lords. Let me read to you a passage, because it is a passage of the highest court of justice in England:

"It often occurs that on the retirement of one partner, a new partner is taken into the firm, the firm name remaining unchanged. In these cases the doctrine of holding out must be applied with care. Suppose A and B carry on business under the name of X and Co. Neither A nor B holds himself out as member of that firm to any one who does not know their connection with it. If, therefore, A retires from the firm, and gives no notice of his retirement, he will still be liable to old customers who knew of his connection with X. and Co."

That is perfectly elementary:

"and who continue to deal with it on the faith that A is still a member of it; but A will incur no liability to new customers of X and Co. who never heard of him. Further, if on A's retirement C joins B and B and C carry on business as X and Co., even an old customer of X and Co., who goes on dealing with it without notice of A's retirement or C.'s admission, cannot truly say that A ever held himself out as partner with C or with both B and C; and consequently, even an old customer cannot maintain an action against A, B, and C jointly for a debt contracted by X and Co., after A's retirement."

Let me give a simple case. X and Co. is a firm of which the partners are A, B, C and D and their names are disclosed. You write on your letter paper X and Co., partners A, B, C and D. D retires from the partnership and you change the name into Y & Co., and say, Y and Co., late X and Co., partners, A, B and C. You do not give notice as required by section 71, but you have given the amplest notice to the whole world that the partnership has been reconstituted, that D has retired from the firm, that the very name of the firm has been altered from X and Co., into Y and Co. This is an extreme case, but extreme cases are sometimes instructive and prove the points we have in view. Now, in such a case the Court of Equity sitting in England would not have the slightest hesitation in holding that D from the date of retirement and change of the name of the firm has ceased to be a member of that firm and *in foro conscientiæ*, "in the court of the ordinary conscience", every man whom you meet, whether he is a trader or not, will immediately say, "Here you are, he has done the very best thing he could have done. He knew all about it, the name of the firm has been changed, the name of the partners altered and that was a notice given to everybody". But if under the Indian law we pass this clause and clause 71 alongside of it, this would be no notice at all. The Indian law would say, "I do not care whatever declaration you made. I do not even care if you change the name of the firm and said it was late X and Co., now Y and Co. You even disclosed the fact on your letter heads and by other documents that A. B. C and D are now converted into a firm of A, B and C,—D retiring". Because no public notice has been given in the strict sense in which clause 71 is worded, and to which the Honourable the Law Member has just now referred, therefore, there has been no dissolution for determining the rights and liabilities of D *vis-a-vis* the third party concerned. That, I submit, is carrying technicality to a very extreme verge and to an absurd limit. I, therefore, think that the Honourable the Law Member should

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really reconsider this point, because a legitimate ground for asking him to reconsider it is firstly that the law should be, as far as possible, assimilated to that obtaining in England, and secondly, because it is just and equitable that the person, who has given notice, not necessarily notice in the exclusive form provided for by clause 71, should be held to be sufficient. I, therefore, think that this is a case in which the Honourable the Law Member should not oppose the amendment. I quite realise what the Honourable Member said that it will lead to litigation. But after all it is worth taking that risk. When you want justice to be done, we do not mind if some unscrupulous person launches the firm into litigation. We have to look to justice first, and if that justice is to be vindicated in a court of law, then I submit that is a peril which we must assume and must be provided against. Therefore the objection which the Honourable the Law Member has taken, with due respect to him, is, I think, insufficient to overcome the objections we have raised and I would, therefore, ask the House to vote for the amendment.

Mr. Jagan Nath Aggarwal (Jullundur Division: Non-Muhammadan): I support this amendment for the very simple reason that it will promote honest dealings. I wish to reduce the discussion from technicality to the layman's point of view and in order to be able to appreciate this point, I will give you an illustration. Three persons, A, B and C, are partners and after some time, C withdraws from the partnership, takes his share of the partnership assets and goes away to England or to some other place of retirement. In a moment of folly, he does not take any further trouble, does not advertise in the gazette as he is required to do under clause 71. He may disappear from the scene for a few years and have no connection with the partners and their business. After five years, what do we find? A creditor may very conveniently proceed against this man, who, say, is living in Mussoorie or some other place in retirement, for acts of the company, for the simple reason that though every one in the world knows that he has withdrawn from the partnership, because public notice has not been given under clause-71, saying that the man is not liable and the other partners are able to foist the liability on to this man who has nothing to do with the firm for the simple reason that we, the law-makers, with the help of my Honourable friend, the Law Member, insist that though all the world knows the fact of that man having ceased to be a partner, yet because of the accident of his not having given notice, he should suffer. With due respect to the Honourable Member, I think we would be promoting dishonesty of the worst kind, and what is more, it would depend not so much on what a man's intentions may have been but on the mere accident of a certain notice not having been given at a particular time. We are told that the only reason, if I may say so with due respect, that is supposed to be in support of the attitude taken up by the Law Member is that it will open the floodgates of litigation, the one thing for which I, as a lawyer, have no terror. I certainly assure the House that it is not from that point of view that I support this amendment. I can assure the House that the reason is if a dishonest person has got to go to the law and if an honest person is forced to go to court and defend his person, it is a very bad proposition indeed of the present state of the law. Every creditor of the partnership firm will immediately proceed against the man who has gone away from partnership and he will have to invoke the aid of the

law to protect himself. But if we amend the law in the sense that has been recommended by Diwan Bahadur Rangachariar, then the position would be that this man may have to go to court. Therefore this idea of letting loose the floodgates of litigation does not frighten me at all. Where is the point in not allowing a person when he is brought to a law court to prove that the other man has no equity in his favour but knew it all along. I submit this is not only good law but it would be good common sense law.

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): I am sorry I cannot support this motion. In the first place the Bill has provided a particular mode of notice being given. That can easily be proved in a court of law when a suit is filed. Moreover we have to look at it from two different points of view, from the point of view of the retiring partner and also from the point of view of the old customers of the firm. If so far as we have seen, exception has been taken from the point of view of the old customers of the firm, I can quite anticipate that a partner would have sent a public notice. But as regards the objections from the point of view of the retiring partner, all that he has to do is to put in a notice in the Gazette, or a notice as provided in the Bill, and there his responsibility ceases. If he does not do that and he relies upon personal notice being given, or upon knowledge of the man, that would mean an issue in a court of law and evidence on both sides which is very inconvenient and would be very costly, although by a mere notice which would cost him only Rs. 5 or Rs. 10 he can avoid all these difficulties. In these circumstances as this amendment has been proposed mostly on behalf of retiring partners, I should think that the provision as made is ample and sufficient for his purposes.

Mr. C. C. Biswas: Sir, I think we might arrive at a compromise. This clause has been inserted mainly for the protection of the retiring partner, and it is provided that if the retiring partner gives public notice, he is safe and is not to be held liable for the obligations of the firm incurred after the date of his retirement. The point has been raised, suppose such public notice has not been given by such retiring partner for some reason or other, but the customers of the firm have knowledge all the same of the fact of such retirement; would it be just in such a case to hold the retiring partner liable in spite of such knowledge on the part of the customers? Sir, I think where the retiring partner has omitted to give such public notice, if the law requires that it will be upon him to prove that the customers had knowledge, then the situation will be amply met. You do not throw the burden upon the customers of proving that they had no knowledge. The retiring partner is given the option. If he elects to fortify himself completely, he must give public notice. In that case it is conclusive, and no further question arises. No man would be entitled to come and allege that he still continued as a partner or that he did not inform all the customers that he had retired. But in cases where he omitted to give such public notice, then the law may cast upon him the burden of proving that in any individual case the customer had notice of such retirement.

The Honourable Sir Brojendra Mitter: But is not the burden always on the person who alleges the affirmative?

Mr. C. C. Biswas: The point is this. As a matter of fact if public notice is given, the question of burden does not arise. Therefore what I suggest is this Where public notice has not been given, the retiring partners will have to prove that the customers had knowledge. I do not see why we should not accept the same principle as we have in the existing section 264 of the Contract Act. I will slightly amend the words suggested by the Diwan Bahadur, and say, "until public notice is given of the retirement, or the retiring partner proves that the third parties had notice of such retirement". The burden is of course always upon the retiring partner, but we should make that perfectly clear, so that there can be no question of any grievance raised by anybody. The retiring partner wants protection. He can give himself that protection either by following the provision laid down, *i.e.*, the giving of public notice, or if he does not do it, then by having to prove affirmatively that the individual customer with whom he was dealing had actual notice of his retirement. To make it perfectly clear, I would suggest the addition of the words, "until the retiring partner proves that the third party had notice of such retirement".

Sardar Sant Singh: Sir, in this connection I should like to invite the attention of the Honourable the Law Member to one fact which has not been discussed so far, which is that reading clause 71 wherein the mode of giving public notice is defined, we find:

"Where it relates to the retirement or expulsion of a partner from a registered firm, or to the dissolution of a registered firm, or to the *election to become or not to become a partner* in a registered firm by a person attaining majority who was admitted as a minor to the benefits of partnership, by notice to the Registrar of Firms under section 62, and *by publication in the local official Gazette and in at least one vernacular newspaper circulating in the district where the firm to which it relates has its place or principal place of business.*"

From this it is clear that the date of giving notice will be the date when the official Gazette has been published. Now these Gazettes are published weekly. Supposing during the week that expires between his retirement, and publication of the Gazette, any liability is incurred, will it be the fault of the retiring partner or will you take it from the date when he sends the notice to the Gazette about his retirement?

The Honourable Sir Brojendra Mitter: It must be the date which the notice bears.

Sardar Sant Singh: But that is not clear from the wording of the clause.

The Honourable Sir Brojendra Mitter: That is the existing law. When you talk of notice and the question is about the date of the notice, it is not the date of publication in the official Gazette but it is the date of the notice itself.

Sardar Sant Singh: Then may I draw your attention to the word "publication"? Publication means when the Gazette is published. It may not be, when you actually receive the Gazette when it is really published for the outside world. Although the retiring partner has taken due diligence in sending the notice, he has to suffer because the Gazette is published late. So the best course would be to accept the amendment proposed by Diwan Bahadur Rangachariar.

Mr. R. K. Shanmukham Chetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): Sir, we have had the opinion of the lawyers on the issue before the House. I daresay that from the point of view of the lawyer it would suit admirably to leave the clause as it is in the English law, and then for the issue whether notice has been given or not to be raised in the court when the dispute arises. But looking at the question from the point of view of the business man and the persons who will be affected by this clause, I am afraid that the amendment proposed by my Honourable friend, Mr. Rangachariar, does not really improve matters for the business community. What the clause is seeking to provide is for cases where a partner retires from a firm, and to determine the relation between such retiring partner and third parties. Now, if a man chooses to retire from a partnership, knowing full well the obligations imposed upon partners, it is up to him to take the necessary steps to enable the world to know that he has retired from the partnership. To safeguard my interest when I retire from my partnership, I would certainly take very great care to publish to the world in a recognised form the fact of my having retired from the partnership. Now, Sir, so far as the protection of that right given to me is concerned, I would rather have a clear and well-defined method of giving that notice rather than leave it to the courts to determine when the issue is raised whether constructive notice has been given, whether legal notice has been given or whether illegal notice has been given. So from the point of view of the person who primarily has to be protected in business concerns, the clause as it is amply safeguards the person who retires from partnership by saying that he must publish in the local Gazette and at least in one vernacular newspaper of the province in unambiguous terms the fact that he has retired from the partnership, and when that is done I think it will not be in the interests of business to allow this question to be left open and to be raised again when a suit comes on. I therefore support the section as it stands.

Sir Lancelot Graham: Sir, my task has been made easy by the intervention in the debate of two of the previous speakers—Mr. Sen, whom I may call a practical man of law, he being a solicitor, and my friend, Mr. Chetty, the Deputy President. What we have tried to do and what we are going on trying to do, because we stand against this amendment, is to make the position of the law perfectly clear, and to lay a definite obligation on the retiring partner; and it is after all a very small obligation. We are not asking him to incur a great deal of trouble. A man does not retire from business every day; we are not asking him to visit an office every day; we are not putting any irksome duty upon him. On a single occasion of his retirement from partnership we ask him to take a very simple action. My friend, Mr. Aggarwal, said a retiring partner in a moment of folly might neglect to give public notice; and then he proceeded to say that some years after something might happen. It is not a question of a moment of folly—it is a question of days, and weeks, and months and years of folly; and in such a case I think the fool should pay for his folly. Really I have nothing more to add, except that we are convinced that our proposal will make for simple working of the law.

Mr. President: The question is:

1 P.M.

"That in sub-clause (3) of clause 32, after the words 'before the retirement' the words 'until they have knowledge of, or' be inserted.

The Assembly divided:

AYES—16.

Abdul Matin Chaudhury, Mr.
Abdur Rahim, Sir.
Aggarwal, Mr. Jagan Nath.
Azhar Ali, Mr. Muhammad.
Biswas, Mr. C. C.
Gour, Sir Hari Singh.
Jog, Mr. S. G.
Pandit, Rao Bahadur S. R.
Raghubir Singh, Kunwar.
Rangachariar, Diwan Bahadur T.
Sant Singh, Sardar.
Sarda, Diwan Bahadur Harbilas.
Sitaramaraju, Mr. B.
Thampan, Mr. K. P.
Uppi Saheb Bahadur, Mr.
Ziauddin Ahmad, Dr.

NOES—59.

Abdul Qaiyum, Nawab Sir Sahibzada.
Acott, Mr. A. S. V.
Allah Baksh Khan Tiwana, Khan Bahadur Malik.
Allison, Mr. F. W.
Anklesaria, Mr. N. N.
Azizuddin Ahmad Bilgrami, Qazi.
Bagla, Lala Rameshwar Prasad.
Bajpai, Mr. R. S.
Banerji, Mr. Rajnarayan.
Bhargava, Rai Bahadur Pandit T. N.
Bhore, The Honourable Sir Joseph.
Bhupat Sing, Mr.
Brown, Mr. R. R.
Chetty, Mr. R. K. Shanmukham.
Clow, Mr. A. G.
Cocke, Sir Hugh.
Cosgrave, Mr. W. A.
Crerar, The Honourable Sir James.
Dalal, Dr. R. D.
DeSouza, Dr. F. X.
Dudhoria, Mr. Nabakumar Sing.
Dutt, Mr. Amar Nath.
Fox, Mr. H. B.
French, Mr. J. C.
Gidney, Lieut.-Colonel Sir Henry.
Graham, Sir Lancelot.
Gwynne, Mr. C. W.
Heathcote, Mr. L. V.
Howell, Sir Evelyn.
Ismail Khan, Haji Chaudhury Muhammad.
Jawahar Singh, Sardar Bahadur Sardar.
Lal Chand, Hony. Captain Rao Bahadur Chaudhri.
Macqueen, Mr. P.
Misra, Mr. B. N.
Moore, Mr. Arthur.
Morgan, Mr. G.
Mukherjee, Rai Bahadur S. C.
Noyce, Sir Frank.
Parsons, Sir Alan.
Puri, Mr. Goswami M. R.
Rafiuddin Ahmad, Khan Bahadur Maulvi.
Rainy, The Honourable Sir George.
Rajah, Rao Bahadur M. C.
Rama Rao, Diwan Bahadur U.
Rastogi, Mr. Badri Lal.
Ryan, Mr. T.
Santos, Mr. J.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Scott, Mr. J. Ramsay.
Seaman, Mr. C. K.
Sen, Mr. S. C.
Studd, Mr. E.
Sukhraj Rai, Rai Bahadur.
Sykes, Mr. E. F.
Tait, Mr. John.
Wajihuddin, Khan Bahadur Haji.
Wood, Sir Edgar.
Young, Mr. G. M.

The motion was negatived.

Mr. President: Does the Honourable Member wish to move his next amendment*?

Diwan Bahadur T. Rangachariar: No, I don't wish to move it.

Mr. President: The question is that clause 32 be added to the Bill.

The motion was adopted.

Clause 32 was added to the Bill.

Clauses 33 to 43 were added to the Bill.

*"In sub-clause (3) of clause 32 after the words 'public notice is given of the retirement' the words 'whichever is the earlier date' be added."

Mr. President: Clause 44.

The Honourable Sir George Rainy (Member for Commerce and Railways): Sir, I move:

"That in sub-clause (*e*) of clause 44 for the words 'share in the property of' the words 'interest in' be substituted."

This, Sir, is a purely drafting amendment.

Mr. President: The amendment proposed is:

"That in sub-clause (*e*) of clause 44 for the words 'share in the property of' the words 'interest in' be substituted."

The motion was adopted.

Clause 44, as amended, was added to the Bill.

Mr. President: Clause 45.

Diwan Bahadur T. Rangachariar: I do not wish to move it. It is similar to 32.

Mr. President: You don't wish to move either of the two amendments†?

Diwan Bahadur T. Rangachariar: No, Sir.

Mr. President: The question is that clause 45 be added to the Bill.

The motion was adopted.

Clause 45 was added to the Bill.

Clauses 46 to 53 were added to the Bill.

Clause 53A was added to the Bill.

Clauses 54 to 56 were added to the Bill.

Mr. President: Clause 57.

Diwan Bahadur T. Rangachariar: Sir, in clause 57, sub-clause (3) Honourable Members will notice it is stated that a firm shall not contain any of the following words for registering it, namely: "Crown", "Emperor", "Empress", "Empire", "Imperial", "King", "Queen", "Royal", etc., unless they obtain the consent of the Governor General in Council for the use of such words as part of the firm's name. Sir, I consider it is rather hard that a person should be deprived of using his own name by virtue of this clause. I know of a well known firm of Solicitors in Madras known as King & Patridge, and they will not be entitled hereafter, unless they register themselves and unless they obtain the consent of the Governor General in Council, to use their own name. There are several such names, Sir. King is a very common name among Englishmen, and I think we ought to preserve the right of every person

†"In sub-clause (1) of clause 45 after the words 'before the dissolution' the words 'until they have knowledge of, or' be inserted."

†"In sub-clause (1) of clause 45 after the words 'public notice is given of the dissolution' the words 'whichever is the earlier date' be added."

[Diwan Bahadur T. Rangachariar.]

to use his own name, however, confiscatory the Legislature might like to be. Surely a person has got a right to use his own name; he ought to be entitled to use it.

Another thing which is of more vital importance is, there are several firms which have acquired a goodwill under any one some or other of these names. For instance, I have in mind the case of the Imperial Tobacco Company, the Imperial Film Company, the Empress Theatre or the Empire Printing Works or the Crown Bakery and various other things which are existing firms who have acquired a goodwill under those names. It is a very valuable property. Those firms are expected to register if they are to enforce their rights and file suits, and they will have to apply to the Governor General in Council for his consent to the use of that name. Even existing firms have to do it. It is a hardship. I see the Bengal Chamber of Commerce throw themselves on the goodwill of the Government of India and expect that they will not refuse registration of these names. I am not prepared to place so much faith in the Government of India and rely on their goodwill in order to continue my goodwill which I have already earned by my own honest exertions. It is very unsafe to rely upon executive goodwill. It depends upon so many factors at to how you please them in various ways, or how you displease them in some other ways. I do not see why persons should be deprived of their property and the property placed at the mercy or goodwill of the Government of India. So this is trying to confiscate property, for we have got property in a name, and this is an indirect method of confiscation of property. I can understand its limitation being imposed on new names or new firms which have to come into existence. Therefore, I move:

"That in sub-clause (3) of clause 57 before the words 'A firm name shall not contain' the following be inserted:

'Except in cases where the name of a partner happens to be king and also in cases of firms which are now carrying on business under such names'."

It will save the rights of persons which are already existing. By all means give the privilege to the Government of India to sanction the use of these names for future firms. Sir, I move my amendment.

The Honourable Sir Brojendra Mitter: I am obliged to the Diwan Bahadur for introducing an element of humour into this rather dry business of partnership. I was expecting all the time that, after making his speech, he would say he did not wish to move the amendment. It is difficult to take this amendment seriously because, after all, this clause is taken from section 11 of the Indian Companies Act. In that section "King" means the Sovereign and not the gentleman who bears the name of King. No difficulty has been experienced and no difficulty is likely to be experienced. If the use of the word "King" by a person who is known as "King" creates no difficulty the second part of the amendment does not arise.

Mr. President: The question, which I have to put, is:

"That in sub-clause (3) of clause 57 before the words 'A firm name shall not contain' the following be inserted:

'Except in cases where the name of a partner happens to be king and also in cases of firms which are now carrying on business under such names'."

The motion was negatived.

Mr. President: The question is that clause 57 stand part of the Bill.

The motion was adopted.

Clause 57 was added to the Bill.

Clause 58 was added to the Bill.

Mr. President: The question is that clause 59 stand part of the Bill.

Sardar Sant Singh: I want to draw the attention of the Honourable the Law Member to one expression in this clause. Sub-clause (1) says:

"Where an alteration is made in the firm name or in the location of the principal place of business of a registered firm, a statement may be sent to the Registrar.. . ."

Here only the principal place of business is mentioned. Supposing after the registration of the firm the firm opens other branches or closes one branch and opens another, will it not be necessary to get it registered with the Registrar?

The Honourable Sir Brojendra Mitter: We considered this point and we thought that it would be rather oppressive to require notice of all changes which may be made from time to time. So we confined the requirement of law only to change in the principal place of business.

Mr. President: The question is that clause 59 stand part of the Bill.

The motion was adopted.

Clause 59 was added to the Bill.

Clauses 60 to 67 were added to the 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 in the Chair.

Mr. President: The question is that clause 68 stand part of the Bill.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): Sir, I move that clause 68 of the Bill be omitted. Clause 68 is the most important part of the new feature of this Bill. It attaches a very grave disability to a firm which is not registered. The disability is so great that almost every firm of partnership at some time or other will have to register itself. Therefore I take it that under this clause every firm will be registered, even though that firm is a small one and only engaged in a single undertaking. Registration would be necessary in order to save it from further troubles. In my speech on Monday I gave reasons at length as to why this portion of the Bill dealing with registration of firms was not necessary and was likely to prove a clog on business and affect it adversely. From the opinions which I read out such as those of Justice Niamatullah and Justice Jailal of Lahore and others, I showed that some of the highest judicial authorities also took the same view of the matter as I did. I also showed that the Indian business bodies and trade

[Diwan Bahadur Harbilas Sarda.]

associations who were consulted by Government in this matter were unanimously against compulsory registration and against the enactment of clause 68 of the Bill. I do not want to repeat what I said, but I only draw the attention of the House to what I then said about this disability and the grave consequences which this disability will entail. I speak subject to correction, but I think that till 1916 compulsory registration of every firm of whatever kind was not necessary under the law in England. The Partnership Act of 1890, on which this Bill is based and from which as I said clauses have been bodily taken into this Bill, did not enact that every partnership firm, however small, whatever the business it transacted, should be registered. It was only in 1916, after a very long course of business, that they found it necessary in England to enact that law, and if that is correct, I think the time has not come in India when at the very beginning of enacting a partnership law, this provision regarding compulsory registration of every small undertaking should be registered. Sir, I move.

The Honourable Sir Brojendra Mitter: This is an extraordinary motion because the Diwan Bahadur himself says that this is the most important clause in the whole of this Chapter and it deals with the effect of non-registration. The House has passed the provisions relating to registration, what is to be registered, how it is to be registered and so on. Having done that, the House is now invited to say that it does not want to give effect to all that it has approved and not provide any sanction for registration. That is the effect of this motion. The Diwan Bahadur says that clause 68 imposes disabilities. Of course it does and that is the purpose of clause 68. This clause deals with the effect of non-registration. What is the good of registration unless some effect follows non-registration? It is inconceivable that you should provide for registration and not provide for cases where registration is not effected according to law. The Diwan Bahadur said that there was no such provision in the Partnership Act of 1890. But in 1916 an Act was passed in England, which is called the Registration of Business Names Act, 1916, which provides for registration and what they say in that Act is this:

Section 8:

"Where any firm or person is in default in sending in the particulars required by the Act (*which is the same thing as non-registration*) the rights of that defaulter under or arising out of any contract made or entered into by him or on his behalf in relation to the business in respect of which the particulars ought to have been furnished shall not be enforceable at any time while he is in default by action or other legal proceeding either in the absence of the name or otherwise."

It is no use providing for anything unless you also provide the sanction, and clause 68 provides the sanction. I hope the House will not entertain this amendment.

The motion was negatived.

Mr. S. G. Jog (Berar Representative): I rise to move the amendment which stands in my name:

"That to clause 68 the following new sub-clause be added:

'(5) This section shall not apply to firms or to partners in firms whose capital is less than two thousand rupees'."

Diwan Bahadur Harbilas Sarda proposed the omission of clause 68. The Honourable the Law Member said that it was unreasonable, and I also thought that it was a bit unreasonable, after having passed the other provisions. I think that section 68 is essential, but I think my amendment is more reasonable. The other day when discussing the general provisions of the Partnership Bill, I said that it will work as a sort of hardship upon small business people living in small towns and villages, who will not be able to know exactly what to do and who will find difficulty in going to towns where the registration offices will be located, and the difficulty of getting legal help and all these difficulties will come in their way and thus, instead of encouraging the partnership enterprise, as I said the other day, it would go a great way towards discouraging and hampering the progress of partnership. Therefore, I suggest that to small concerns whose capital is below Rs. 2,000, this clause should not be made applicable. As I said the other day, it may be absolutely necessary for a commercial community doing business in presidency towns, but so far as villages and other small towns are concerned, I do not think this will in any way prove beneficial. The other day when I spoke on this subject, I had not gone through the opinions, but now I find that one Additional Judicial Commissioner and many others in my province have lent support to the view which I am propounding now. As regards Chapter VII this is what W. F. H. Staples, I.C.S., Bar.-at-Law, Judicial Commissioner, Central Provinces, says:

"I am of opinion that this chapter is too much of an advance for the greater part of British India outside the presidency towns. Further, if the suggestion that partnership can only be constituted by a registered deed be adopted, the necessity of registration of firms will disappear at any rate to a great extent. If, however, it is decided to retain this chapter, I am of opinion that it should not be brought into force in the mufassil for some time and that section 68 should not come into force for at least one year after the other provisions of the chapter have been applied. Further, I am of opinion that section 68 should not apply to firms with a capital below Rs. 1,000."

Even then, I am not exactly satisfied. According to my ideas and the notions of the village people, I think all firms with a capital below Rs. 2,000 should be exempted from the operation of this hard and rigid rule of registration. If it is made applicable to all firms and then suits are brought by those firms which are not registered, then in every case the defendant will come and say, if a single man brings a suit saying that he owes so much and so much, then the defendant will in every case come forward and say, "No, this is not his individual dealing; there is a partner with him in this dealing" and with a view to delay the proceedings in every case where there is a partner, the issue will be raised whether this dealing is one of partnership or not, and whether the constitution is a bogus one or not. The other day the Honourable the Law Member said that he was not in active practice now. I can certainly accuse him that he does not know the practical difficulties of lawyers in the mofussil and the delaying tactics of the defendant for prolonging litigation. In every case lawyers will come forward and litigants will come forward and say that this is a dealing of partnership and there are partners, real or bogus, and in that case the preliminary issue will arise whether this dealing refers to a partnership, and the evidence will be gone into even in a suit of Rs. 200 or Rs. 500, or even of Rs. 50 value, and the litigation may be protracted, with the result that the plaintiff, even with a good and honest claim, may be prevented from bringing the case to an issue, and the case may be protracted for a long time so that I am afraid, this measure,

[Mr. S. G. Jog.]

instead of remedying an evil or doing good to a particular community or facilitating the business of a particular community, will do a great deal of mischief and harm rather than good. Therefore I submit that something must be done which will go a great way towards exempting these small dealings, and therefore I have suggested that in the case of all small firms where the capital is below Rs. 2,000, this compulsory registration should not be enforced. In the proceedings they say that the provision for registration is optional, but I cannot understand in what sense it can be said to be optional when you say that if you do not do a particular thing, you cannot bring a suit. That means practically you compel the man in another way but at the same time you nominally say that the provision is optional. Suppose you say to a man, "Well, you are allowed to go to Delhi and to sit in the Visitors Gallery of the Legislative Assembly Chamber at Council House" but you give instructions to the Station Master at Calcutta not to issue a ticket to him. Although here you intend to make it voluntary, in effect it is made compulsory. Therefore, this compulsory nature of the measure is extremely objectionable, as it will certainly discourage trade and small business concerns in the mofussil. Therefore I hold that the House should agree to my amendment and take away a good deal of the element of the rigidity of registration for small concerns. Sir, I move.

Mr. Jagan Nath Aggarwal: Sir, I have great pleasure in supporting this amendment because, as was pointed out with regard to the last amendment, because, if we had enacted that firms must register, then there must of course be some sanction behind it, but for this amendment there is this additional merit that it will leave out the small trader and it will keep him out of the courts. The whole point of registration is that large issues are involved; the question arises whether somebody is a partner in it and that has got to be debated in that laborious way which is very expensive to the litigant and hardly does credit to anybody. The whole point underlying this amendment is that you may be penalising the small partnerships too much. A small partnership may last for a short time or there may be a partnership in a very small kind of way in the mofussil and in the village and it would be really hard for such a partnership to be registered and to be visited with penalties for failure to register, which big firms might very well suffer. The question, Sir, whether the small firms should be left out is a matter which is agitating the minds of several of my friends in the House, as the number of amendments clearly shows, and I submit, whether we look to the amount of capital involved, or whether we look to the amount of claim involved, some relief must be afforded to the small trader. As an alternative to this, one might as well throw out the suggestion that it would be very difficult to say whether the capital is really Rs. 2,000, because that would involve elaborate inquiries in individual cases, and it might be contended that various attempts may be resorted to in order to show that the capital is below this figure, and whether a concern is a small business concern or a large one. I do not know whether my Honourable friend would accept the suggestion, but if you limit it to the value of the plaint, I should be quite satisfied, so that the whole point underlying this amendment is that the small trader should not be put to the worry and expense of having all this legislation, and you should afford relief to him either by looking to the amount of the capital involved or the amount of the claim involved. This would give him a much needed relief.

Mr. S. C. Sen: Sir, I rise to oppose the amendment. If this amendment is accepted, then, instead of remedying the defect, we would be doing injustice to small traders. If we say that the capital is less than Rs. 1,000 or Rs. 2,000, then in every case there will be an issue as to whether the capital is less than Rs. 1,000 or Rs. 2,000. That would mean at least one or two days' hearing in the court, and so much expense incurred by the small traders. So instead of doing that, if we leave them as they are but leave out or make an exception in respect of a certain class of suits of a small cause court nature, where the amount will not be more than Rs. 200, the same thing can be easily effected and the small traders who have very seldom to file a suit of more than Rs. 200 will be protected. I do not know whether the Treasury Benches will accept this view and agree to an amendment to that effect. As regards the contention raised by my friend Mr. Jog that this will be a means of protracting the litigation by enabling the defendant to raise the question of partnership in every case, supposing this amendment is not here what would be the effect? I, as a defendant, can always say that the plaintiff is not entitled to file a suit as there are other persons who ought to be the plaintiffs to the suit. It is a well known principle of law that if three persons are entitled to a claim and one of them files a suit, the whole case is bad. If I can prove that there are other persons interested in the suit . . . . .

Mr. S. G. Jog: In that case the defendants will have a right to costs if they can get the case dismissed on any ground.

Mr. S. C. Sen: I do not understand this. In the case of mofussil courts it often happens that the period of one month, which is the period of limitation, is often allowed to expire. What would be the effect of that? And, as a matter of fact, such a contention can be raised in every suit irrespective of the provisions contained in this Bill. Under these circumstances, instead of giving relief to the small traders, this amendment will increase their difficulties. I therefore oppose this amendment.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, after hearing my Honourable friend Mr. Sen I am not convinced why my Honourable friend Mr. Jog's amendment should not be accepted. I come from the mofussil and the Honourable the Law Member, I think will excuse me if I say that he has not as much experience of the mofussil law courts as Mr. Jog. It may be that Mr. Sen has got some experience of the mofussil, but our experiences differ. I have spent the whole of my life in a mofussil station and know fully well all the difficulties of registration in the case of small matters. I think my friend, Mr. Sen, the income of whose firm borders on 6 or 7 figures, cannot realise the difficulties of those people who live in villages and carry on small trade. I feel sure the Honourable the Law Member, who is the sponsor of this Bill, will remember what difficulty I had at one time to convince him and Mr. Jinnah about the difficulties of registration when we were amending the Transfer of Property Act. If he remembers that and also the concession that he then made to the views of those who have more intimate knowledge of mofussil life, then I think he will have no hesitation in accepting the amendment of Mr. Jog. I appeal to him once more from our personal experience that this is a very reasonable amendment and he should accept it.

Sardar Sant Singh: Sir, though I sympathise with my friend Mr. Jog in his laudable object to protect the interests of the small firms, I am afraid I cannot support his amendment. My Honourable friend, Mr. Jagan Nath Aggarwal, who supported the amendment, raised an important issue which he did not pursue further. What is the meaning of the capital of the firm? By asking the courts to define the word "capital", will he save the small firms from the inconvenience, or will he be adding to the difficulties of the firm on that account? The courts will be led into an entirely irrelevant issue to find out what was the capital of the firm, whether it required registration and whether it fell within the limit of Rs. 2,000 or beyond that limit? Then, Sir, "capital" itself is an expression which can hardly be defined. Therefore my submission is that, though we all feel sympathy with the small trader and small firm, we will not be helping the small trader or firm by accepting this amendment. Therefore, I oppose it.

The Honourable Sir Brojendra Mitter: Sir, when drafting this chapter on registration, we were constantly mindful of the difficulties of the small tradesman and we tried to examine the question from all points of view. We could not find a solution which would meet the case of the small trader by limiting the amount of capital in the manner which Mr. Jog and Diwan Bahadur suggest. A suggestion was made to us this morning by Mr. Sen on the basis of the claim in suits of a small cause courts nature, that such suits might be usefully excluded from the operation of this Chapter. I am inclined at the moment to accept that suggestion, but it will have to be carefully considered; and I can assure the House that if we are convinced that that is practicable, then, we shall have an appropriate amendment in the other House and bring the Bill back to this House. Sir, so far as Mr. Sen's suggestion is concerned, the promise I make now is that I shall examine the matter which, off-hand, seems to me to be practicable, and, if on full consideration we find it practicable, we shall do the needful.

As regards the amendment itself, when I explain the effect of it, the Honourable the Mover and those who have supported him will see that it is not practicable. Sir, the suggestion is that where capital is of a certain value, say, Rs. 2,000 or under, then this chapter will not be applicable. That is the suggestion. Now, who is to say when capital is Rs. 2,000 or under? What is capital? There are very big firms which carry on business without any capital. For instance, firms of stock brokers. Then, there are firms which carry on business with a certain amount of capital and a large amount of credit. Now, will they come under the exclusion or within the scope of the chapter? Who is to decide that? Then, there may be cases where capital was a certain amount and in course of business it either increased or decreased. Now, what is the point of time when you are to find this capital whether it is Rs. 2,000 or more or less? Is it at the time when the business was started, or is it at the time when the cause of action arose, or is it at the time when the suit is brought? Which is the relevant point of time when the amount of capital is to be ascertained? In the amendment no light is thrown upon it. I will examine this case from any of these points of view. I was trying this morning to work it out. Supposing, when the business started the capital was less than Rs. 2,000, when the cause of action arose, the capital was still less than Rs. 2,000 but when the suit was actually brought it was more than Rs. 2,000. What is the

suggestion? Is registration necessary or not? We do not know; the amendment does not help us. Take the other case, when the partnership was formed, the capital was less than Rs. 2,000, when the cause of action arose it was more than Rs. 2,000 but at the time of the suit, it was less than Rs. 2,000. How will the amendment work? It is absolutely unworkable. Again, who is to decide whether money employed in the firm is capital or loan or advance. If you have a provision like that which is suggested in the amendment, then, the court will have to go into the question whether the amounts appearing in the books of the firm are capital or loan to the firm, and a difficult issue will arise in every case. Look at the implication of it. In every case books of account will have to be examined in order to find out capital. That is precisely the thing which we want to avoid. If Honourable Members will look at section 57 they will find the particulars of which we want disclosure. We want disclosure of the firm name, the place or principal place of business of the firm, the name of any other places where the firm carries on business, the date when each partner joined the firm, the names in full and permanent addresses of the partners, and the duration of the firm. The disclosure we want is of matters which the outside trader ought to know for honest trading. We do not want disclosure of the internal affairs of the firm. This amendment will necessitate in every case an inquisitorial enquiry into the private affairs of the firm. The firms, on whose behalf this amendment is moved, will hardly welcome that in every case their internal affairs should be examined in court, what capital is employed in the firm, what the nature of the business is, how much is capital, how much is loan and what was the original capital and what is the present capital. In order to know the internal affairs of a trader, a rival trader will always take that plea in order to examine the books of the other firm. That is a position which would be intolerable for the purpose of honest trading. That is a difficulty which I do not think the Mover of the amendment took into consideration.

Then consider the other difficulties. Supposing the capital is over Rs. 2,000 and then a partner withdraws a part of the capital with the consent of his co-partners. How will this amendment work in such a case—Rs. 2,000 capital and Rs. 500 withdrawn? Will registration be necessary or not? How is it to be worked out? Then, take the case of capital in the shape of good debts. A partner does not contribute cash, but what he says is this, "I have got to get a sum of Rs. 50,000 from such and such a firm, it is a good debt and that is my contribution towards the capital of this firm". Will that be taken into account in ascertaining whether the firm is registrable or not? All these questions will arise if you have any limit put upon capital as the determining factor for registration. It is impracticable and not only impracticable but in every case an issue will be raised which will require for its determination a thorough enquiry into the books of the firm, a disclosure of the internal affairs of the firm which no trader will welcome. My Honourable friend Mr. Jog said, a similar difficulty might arise in the case of a man who is carrying on business by himself, and the plea is taken that he has a partner. In that case the issue will arise whether the business is carried on in partnership or by a single individual. For that purpose the books of the firm need not be examined at all because it will be for the defendant to prove in the first instance that the plaintiff has a partner and the defendant, in order to prove his own case, will not be entitled to look into the books of the plaintiff.

Mr. S. G. Jog: The plaintiff can be summoned as a witness for the defendant.

The Honourable Sir Brojendra Mitter: What? Plaintiff to be summoned as a witness for the defendant! That is a procedure which is not known in the Civil Procedure Code, and it will not be tolerated by any competent court.

An Honourable Member: Some courts do it.

The Honourable Sir Brojendra Mitter: I remember a case when the prosecution, unable to prove its case, cited one of the defence witnesses from whose mouth it sought to prove its case, but the court said, "No". That is a sort of procedure which no court would allow.

Diwan Bahadur Harbilas Sarda: That is criminal law and not civil law.

The Honourable Sir Brojendra Mitter: So far as the civil law is concerned, that is a procedure which no civil court will allow.

Mr. S. G. Jog: The defendant can call the plaintiff to the witness box and cross-examine him in any way he likes regarding the firm of which the plaintiff is the partner.

The Honourable Sir Brojendra Mitter: The onus is upon the defendant in that case, and unless the defendant discharges that onus or shifts that onus on to the plaintiff, the plaintiff does not go into the witness box for the purpose of that issue, so that the plaintiff need not produce any of his books.

Diwan Bahadur T. Rangachariar: The Honourable Member will permit me to say that we are not all dealing with High Courts who know the rules about discovery and inspection. Often times in the mofussil, I know of cases where the defendant, even before filing his written statement, calls upon the plaintiff to produce books for something or other. One case recently came to the High Court in which the High Court ordered a modified discovery even before the written statement was filed. I quite agree that in the case of the High Courts, they know the rules about discovery and inspection but in the mofussil courts, these sections are not known to legal practitioners, and much less to the judges.

The Honourable Sir Brojendra Mitter: If the law of discovery is liable to abuse, it is for the courts to prevent the abuse.

Mr. Amar Nath Dutt: I can give you a particular suit on the file of the Subordinate Judge of Burdwan, which happened only a few weeks ago. The Subordinate Judge allowed the prayer for discovery and inspection. That has been the practice in the mofussil till now.

The Honourable Sir Brojendra Mitter: It is a wrong practice. We cannot go by wrong practices. Then, my Honourable friend Mr. Jog raised another point. Well, you say that registration is optional but in practice it will be compulsory because no one can bring a suit without

registration. From that he concludes that trade will be hampered, particularly small trade will be hampered. Do I understand Mr. Jog to suggest that litigation is a normal part of trade? I think it is rather an exceptional incident of business, not a normal part of the business itself. There are thousands of firms which carry on business,—how many of them go to court? When a tradesman has to go to court all we say is that he is to treat fairly by those with whom he deals and must disclose by means of registration who his partners are, when they joined and so on. So, unless the House takes the view,—which is certainly a view very favourable to my profession—that litigation is a normal part of every business in the country, then there will always be a distinction between the optional character of registration and compulsory character of registration. Sir, that reminds me that once I went to my friend Mr. Amar Nath Dutt's district in a case, and, when I got down at the station, I saw a very large number of people coming by that train. It was an early train, and I asked the gentleman who was instructing me in the case, a leading pleader of that place, if there was any particular industry in that place as so many people were coming by that train. He said, "Yes, a very prosperous industry; the industry is litigation". Registration will be necessary only in the case when the tradesman unfortunately has to seek the advice of a member of my profession and redress in court.

Sir, Mr. Aggarwal admitted that if you allow this amendment, books of account will have to be looked into, otherwise you cannot settle the issue. And I appeal to the experience of every lawyer friend of mine here whether or not in every case of a suit by an unregistered firm, that issue will not be raised, so that in every such case you will have an inquisition. That will be an intolerable state of affairs. Therefore my submission to the House is that this is not a practical proposition, that a limit should be put on the basis of capital. But in so far as small claims are concerned, claims of a small cause court nature, I shall certainly consider that with sympathy.

Diwan Bahadur T. Rangachariar: Sir, I welcome the disposition of the Honourable Member to consider the question of small traders. I quite recognise the difficulty which he has shown with regard to capital, and therefore I do not support the amendment as it is. May I also throw out a suggestion for his consideration to avoid the many difficulties which have been claimed by him at length? Why not confine the disability to sue to cases of firms who have paid income-tax in the year preceding that in which the suit is brought for a sum of Rs. 2,000 and upwards? There is no question of no information being available or being looked for there. It is my friend Sir George Schuster's department who are always ready with their books, and there will be no difficulty about ascertaining whether the firm has been assessed to income-tax or not. That will be the test of a small firm which will be easily available and therefore it may be considered in order to avoid all these troubles.

The Honourable Sir Brojendra Mitter: Sir, in the profession it is well known that certain classes of business people keep three sets of books, one set for their business, one set for the income-tax authorities and the third set in view of possible insolvency. (Laughter.)

Diwan Bahadur T. Rangachariar: I said assessed income-tax.

Mr. C. C. Biswas: Sir, with reference to the suggestion which fell from my friend Mr. Sen and to which the Honourable the Law Member referred, I find from the Report of the Expert Committee that this had been considered by them and was found equally unpracticable. If you look at paragraph 16 of their Report, you will find that short-lived partnerships and firms in a small way of business are dealt with. The difficulties are recognised, but it is pointed out that the suggestions which had been made for the purpose of meeting those difficulties were not workable in practice, and among the suggestions two are expressly referred to. One was the suggestion made by the Civil Justice Committee that firms with less than a certain capital should be exempted. But the Expert Committee pointed out that capital is something elusive and fluctuating; the same objections which the Honourable the Law Member pointed out are in fact mentioned there, and therefore it will not do to proceed upon that basis. Then, as regards the other suggestion that disability to sue arising from non-registration should apply only to suits above a certain value, this is what the Expert Committee says:

"To use the valuation of a suit in order to determine whether the suit lies or not is likely to lead to improper devices and to perjury."

The Honourable Sir Brojendra Mitter: Sir, may I explain? The suggestion which has now been made is not valuation of a suit but the actual money claimed, of a small cause court nature. So that disposes of the question of valuation or any inquiry as to valuation.

Mr. C. C. Biswas: No doubt it will be some improvement, but that again does not avoid the objection which will help to prolong litigation. The question may be raised as to whether or not it is a suit cognisable by a small cause court or of a small cause court nature, and questions of valuation may be brought up in order to oust the jurisdiction of the small cause court. So you cannot avoid these difficulties altogether. So what I was saying is this. These points had been all carefully considered, and it is only because difficulties of a practical nature were found to stand in the way that the Expert Committee found it impossible to give the relief which was asked for. No doubt a Committee like the Civil Justice Committee, whose recommendations are entitled to great weight, did make that recommendation that firms in a small way of business should be exempted, but we must not forget that what they were contemplating at that stage was compulsory registration. The very fact that the Expert Committee decided to have optional and not compulsory registration is, I think, quite enough to mitigate all the hardships that have been spoken of. After all, what is the hardship? A firm is not called upon to register unless it finds that it cannot realise its dues in the ordinary way. It is only when it is faced with litigation and has to bring a suit that it registers, and what does that mean? It means only this that all the partners have got to sign a statement and pass it on to the Registration Office. No doubt there is a small fee imposed. I can quite understand my friend suggesting that in certain cases the fees may be reduced, but the fees perhaps in themselves are not excessive. So a fee of Re. 1 or Rs. 3 need not stand in the way, if you are going to enforce a claim of Rs. 1,000 or so. You might, if you like, add that the court might in such a case, if the suit is successful, compel the defendant to pay the cost of registration. In that way if the payment of fee is a hardship, you can [illegible] that the

court which passes a decree will add the cost of registration to the claim. That ought to meet the situation. So I do not think that anything is gained by re-examining the question as to whether or not you can put in that clause to which my friend referred.

Sir Lancelot Graham: Sir, I have nothing to add to what has already been said on this side of the House.

Mr. President: The question is:

"That to clause 68 the following new sub-clause be added:

'(5) This section shall not apply to firms or to partners in firms whose capital is less than two thousand rupees'."

The motion was negatived.

Diwan Bahadur Harbilas Sarda: Sir, I move (*Cries of* "Withdraw"):

"That to clause 68 the following proviso be added:

'Provided that the provisions of this section will not apply to partnership firms which can disclose the capital and which have a capital of Rs. 1,000 or under'."

The fate of the last amendment does not encourage me to hope that my motion will meet with any better fate. I know that, but I want to clear a few points which have been raised as objections by the Honourable the Law Member. The principal objection that has always been raised to basing any exemption on capital is that capital cannot be defined, that there are firms with no capital, and therefore it is difficult to exempt them. In order to overcome that difficulty, I have here said "firms which can disclose the capital". If a firm can disclose capital in terms of *£. s. d.* or Rs. a. p., there is no question that it is difficult to determine what the capital of a particular firm is. I limit exemptions only to those firms which can disclose their capital in terms of *£. s. d.* or Rs. a. p., and when that capital is Rs. 1,000 or under; those firms which have no capital, which only trade on the strength of loans or in some other form, or whose capital consists of some other things, they will not be exempted. The idea is to protect small traders in villages and towns who are working in a small way. For that purpose this provision makes the whole thing clear. They must have a capital which can be disclosed in terms of Rs. a. p. and that capital should be less than Rs. 1,000. Therefore that objection vanishes.

The Honourable the Law Member said that there are firms which have got a very small capital and which trade on the strength of large loans; with the assistance of money which they borrow they carry on large business. May be true. But at the same time we have to remember that where the capital is Rs. 75 or Rs. 100 or Rs. 200, you cannot suppose that that partnership firm will be able to borrow Rs. 10,000 or Rs. 20,000. Any man who will lend money to a partnership firm will see what the actual strength of the capital which they have subscribed is. It is only then that they will lend money. To a company whose capital is very small, unless there are very large reserves, nobody would lend large amounts. Therefore the question of loans does not arise. We are going to protect only those small firms whose capital is very little and such firms will not be able to borrow large sums of money; consequently that difficulty would not arise.

[Diwan Bahadur Harbilas Sarda.]

Then, the second objection which the Honourable the Law Member raised was that in order to find out what the capital is, books of accounts will have to be examined and the private accounts of these firms will have to be gone into. Sir, where parties go to court, where disputes with regard to a business arise, it is impossible to hold back books or to see that account books are not pried into. In the first place, the disability under this law attaches not to the third parties, but to the partnership firm which is not registered. Whether a firm which has to be sued is registered or not, a third party can always file a suit against that firm. The disability is only attached to the partnership firm which sues. Consequently if that firm goes to court, it has no right to complain that its books are being examined. The books of the defendants are not going to be examined; the books of the plaintiff are going to be examined; and if that firm goes to court and asks for relief, certainly that firm must be prepared to show its books and accounts to the court . . . .

Sardar Sant Singh: Even of those who are not party to the suit?

Diwan Bahadur Harbilas Sarda: That does not arise. These account books are to be examined simply for one purpose, to find out the capital; and if that is the object, then the examination of account books of others does not arise. It is only the account books of the suing firm that are concerned.

Another objection raised was more hypothetical than positive. It was this; a partnership has a capital of Rs. 2,000; one partner withdraws, his capital is, say, Rs. 500; what will happen? Where is the difficulty? If the partner has withdrawn before the cause of action arose there is an end of it; the capital is only Rs. 1,500; if the partner withdraws after that, that does not matter. This question of the withdrawing of a partner does not affect the thing at all. Whenever a cause of action arises to a firm to file a suit, if on that date the capital of that firm is such and such, the suit can be filed or not and there is no more trouble. You have no further inquiry to make. Withdrawal of a partner does not make any difference.

A suggestion was made by my Honourable friend, Mr. Sen, which the Law Member thinks is one which requires consideration and upon which he looks with a favourable eye. I quite agree that even if that suggestion is adopted, it will to a great extent help the small trader because the small traders as a rule have very small suits to file, of very small value, and therefore in a way that will be very helpful. About that there is no doubt, and we have to be thankful for small mercies. But its operation will not be limited to small traders. A big firm with a capital of Rs. 50,000 may have to file a suit against a man for Rs. 50; and if that firm is not registered, it will be protected under this new amendment, and it can file a suit without going to registration; so that this actually means that it is not the small trader who is protected but the small claim that is protected. As I said, that will protect not only the small traders but big traders in a way in certain respects in certain matters; but because that will be done it is no argument that small traders should not be protected. Therefore though it will go much further than the object in view, still I think we will welcome the acceptance by the Honourable the Law Member of that suggestion.

As I have said, by disclosing the capital in terms of Rs. a. p. and by limiting the exemption to firms with a capital of Rs. 1,000 or under, many of these objections which were raised are answered. I therefore move my amendment.

The Honourable Sir Brojendra Mitter: Sir, the difficulties which I pointed out in regard to Amendment No. 3 also apply to this amendment, and I have nothing further to say.

Mr. President: The question is:

"That to clause 68 the following proviso be added:

'Provided that the provisions of this section will not apply to partnership firms which can disclose the capital and which have a capital of Rs. 1,000 or under'."

The motion was negatived.

Mr. President: The question is . . . . .

Sardar Sant Singh: Sir, I want to say only one word on the whole clause 68 as it stands. I should like to submit for the consideration of the Honourable the Law Member one point. The wording of sub-clause (1) reads thus:

"No suit to enforce a right arising from a contract or conferred by this Act shall be instituted in any Court or on behalf of any person"

and so on. Nobody can control the institution of a suit in a civil court. Anybody can go and file a suit on payment of the requisite court fee. I think instead of the words "shall be instituted", we should put in the words "no suit shall be entertained or no suit shall be maintainable", etc.

The Honourable Sir Brojendra Mitter: No, Sir, we have used the correct wording. There are two things—the presentation of a plaint and acceptance of the plaint. It is the acceptance of presentation which constitutes institution.

Mr. President: The question is that clause 68 stand part of the Bill.

The motion was adopted.

Clause 68 was added to the Bill.

Mr. President: Clause 69.

Diwan Bahadur Harbilas Sarda: Sir, I move that clause 69 be omitted.

Clause 69 reads thus:

"Any person who signs any statement, amending statement, notice or intimation under this Chapter containing any particulars which he knows to be false or does not believe to be true, or containing particulars which he knows to be incomplete or does not believe to be complete, shall be punishable with imprisonment which may extend to three months, or with fine, or with both."

This clause makes provision for two matters; first it makes punishable filing false statements, and secondly, it makes punishable filing incomplete statements. Now, if a man files an incomplete statement or if he files a false statement, he is to be punished, and the penalty is provided under

The Honourable Sir Brojendra Mitter: As Honourable Member will see, it is not inadvertence which is sought to be penalised. What is sought to be penalised is deliberate misleading. The words are "containing particulars which he knows to be incomplete or does not believe to be complete". Therefore there is deliberateness in it; it is not inadvertence which is sought to be penalised.

Diwan Bahadur T. Rangachariar: May I ask the Honourable Member, taking clause 57 for instance, as to what particulars are to be given for registration—what he would consider as incomplete in that?

The Honourable Sir Brojendra Mitter: I have illustrated that about branches. I have given one illustration.

Mr. President: The question which I have to put is:

"In clause 69 the words 'or containing particulars which he knows to be incomplete or does not believe to be complete' be omitted."

The motion was negatived.

Mr. President: The question is that clause 69 stand part of the Bill.

The motion was adopted.

Clause 69 was added to the Bill.

Clauses 70 to 73 were added to the Bill.

Mr. President: The question is that Schedule I stand part of the Bill.

Diwan Bahadur Harbilas Sarda: This Schedule lays down the maximum fees payable on registration and alterations in the registration of firms as occasion arises. The idea of levying some fee is to cover the cost of registration. This Bill is not a revenue measure. It is not intended that Government should derive any revenue by enacting provisions to regulate registration. That being so, and as this is the first time that firms are required to be registered I think that the amount of fee provided for filing statements under clause 57, that is, when application for registration is made by a firm, which is given here as three rupees—that may very well be reduced to one rupee. If it were a question of revenue, then different considerations would apply, but as this is not a question of revenue but it is solely intended to encourage firms to register, a very small fee should be levied. It should be large enough to cover the expense which Government will incur, but as a number of firms will in course of time come forward to register themselves, the fee collected from these firms will be large, but as it is not apprehended that a very large amount of expenditure will have to be incurred, I propose that, to begin with, it should be one rupee and not three rupees. If you permit me, Sir, I will also add one word with regard to the next amendment because these two go together . . . .

Mr. President: You may move it separately. Amendment proposed:

"In column 2 of Schedule I to the Bill for the words 'Three rupees' the words 'One rupee' be substituted."

Sir Lancelot Graham: In the Bill as introduced it was left to the Local Government to prescribe all fees which may be prescribed under this Chapter. The Select Committee thought that it was giving too free a

hand to the Local Government and the amendment was accordingly made. Having gone so far to meet the Honourable Member, I confess I am disappointed that he should not have been satisfied with the concession which we made in Select Committee. He is now quarrelling with me over the maximum of three rupees. He knows quite well that it is a maximum. We cannot say precisely what it is going to cost. It is quite obvious since we fixed the fee as low as three rupees, that we were not out for revenue, and I think the Honourable Member might trust us to the extent of believing that our figure is as near as we can get to a correct estimate. I am not proposing to haggle or bargain with the Honourable Member. I say we put a figure which we think is reasonable as a maximum. It is a maximum and it does not follow that that figure will be imposed. In these circumstances, I would suggest to my Honourable friend that he might withdraw the amendment.

Diwan Bahadur Harbilas Sarda: I won't press for it.

Mr. President: The question, which I have to put, is:

"In column 2 of Schedule I to the Bill for the words 'Three rupees' the words 'One rupee' be substituted."

The motion was negatived.

Diwan Bahadur Harbilas Sarda: I do not propose to move amendment No. 9† because it is connected with the previous one and that has fallen through.

Diwan Bahadur Harbilas Sarda: I move:

"That in column 2 of Schedule I to the Bill for the words 'Four annas for each hundred words or part thereof' the words 'Four annas for every page of the copy' be substituted."

I am moving this amendment in order to remove an anomaly. When copies of documents are given by courts, the general rule is four annas a page, and a page contains about 300 words. Where copies are required urgently, double fees have got to be paid, but ordinarily they pay only 4 annas. The rate now put down in the Schedule works out at 12 annas a page. If there are 300 words in a page, it will work out to 12 annas a page. I think that four annas a page is ordinarily quite enough. That is why I move this amendment.

Sir Lancelot Graham: I find it difficult really to say anything except that I cannot accept this amendment on behalf of Government. The form which we have used is a common form and I see no reason for departing from it.

The motion was negatived.

Mr. President: The question is that Schedule I stand part of the Bill.

The motion was adopted.

Schedule I was added to the Bill.

Schedule II was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

†"In column 2 of Schedule I to the Bill for the words 'One rupee' wherever they occur the words 'Eight annas' be substituted."

Sir Lancelot Graham: I move that the Bill, as amended, be passed.

The Honourable Sir George Rainy: With your permission, Sir, I wish to move a purely formal amendment as follows:

"That the clauses of the Bill be renumbered and the references to sections consequentially corrected throughout the Bill."

Ordinarily before a Bill leaves the Select Committee, if new clauses have been inserted or clauses left out, the renumbering is done there. But in this case, I understand, it was felt that if the attempt was made at that stage to renumber the clauses, it would have led to difficulty and confusion. For this reason the old numbers were left and when new clauses were inserted, they were numbered 26A or 26B and so on. But it now becomes necessary, before the Bill is passed, that the renumbering should be carried out. It is a purely formal amendment.

The motion was adopted.

Mr. C. C. Biswas: In accepting the motion that the Bill be passed, I think the House will wish to have an opportunity of expressing its congratulations to the Honourable the Law Member and the Legislative Department upon this very satisfactory piece of legislation which was long overdue. It was only the other day that it was the privilege of my Honourable friend the Law Member to have placed upon the Statute-book the Sale of Goods Act, which has been welcomed by the mercantile community and the profession in unstinted terms of approval. Sir, the Partnership Bill represents the second in the series of self-contained enactments, which had been foreshadowed by the framers of the Indian Contract Act, but which did not for some reason or other come for so long. Sir, it was an excellent idea of my Honourable friend the Law Member to have an Expert Committee to go into this matter, before the Bill was placed before the House. It was very satisfactory and it was more satisfactory that my Honourable friend the Law Member was able to invite to that Expert Committee such eminent persons as Sir Dinshah Mullah, Sir Alladi Krishnaswami Ayyar, and Mr. Arthur Eggar. The work of the Expert Committee, which was embodied in the draft Bill, accompanied as it was by illuminating notes, explaining the whole position, rendered the labours of the Select Committee much easier. The Indian Contract Act contained but a very few simple and elementary rules on the subject of partnership. It never pretended to be an exhaustive treatment of the subject. As a matter of fact, the framers of that enactment did contemplate that further special chapters should be added to that Act later on on different branches of the Law, but the hope was not fulfilled for many a long year. Some action, however, was called for. What might have been suitable for 1872 naturally becomes out of date today, and it is a matter for congratulation, Sir, that we have now got before us a piece of legislation which is in entire accord with modern needs and conditions. Trade and commerce do not remain stagnant, and if we are to keep abreast of the times, we have got to mould our legislation in accordance with the changing needs and circumstances. That has been done in regard to two important branches of the Law of Contract, and I do not wish to say more except to express the hope that the Honourable the Law Member may find time to take up some other branch of the same Law and deal with it in the same way as he has done in the case of the Sale of Goods Act and the Law of Partnership. I refer particularly to the Law of Agency. I once more take the opportunity on behalf of the House to offer our congratulations to him and to his department.

Mr. President: The question is:

"That the Bill to define and amend the law relating to partnership, as amended, be passed."

The motion was adopted.

THE WORKMEN'S COMPENSATION (AMENDMENT) BILL.

The Honourable Sir Joseph Bhore (Member for Industries and Labour): I move for leave to introduce a Bill further to amend the Workmen's Compensation Act, 1923.

The motion was adopted.

The Honourable Sir Joseph Bhore: I introduce the Bill.

The Honourable Sir George Schuster (Finance Member): Sir, the next business on the Order Paper for the day refers to the Report of the Public Accounts Committee, and I have received a request from certain Honourable Members opposite who were engaged in a Select Committee and who wished to take part in the discussion on the Report of the Public Accounts Committee, to apply to you, Sir, to allow me to move the Demands for excess grants in advance of the motion relating to the Report of the Public Accounts Committee, if you should approve that procedure. I place myself in your hands in the matter.

4 P.M.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair takes it that Government will provide another day for the consideration of the Report of the Public Accounts Committee?

The Honourable Sir George Schuster: It is not in my power to say what time will be available for the House, but I take it that if we get through the Demands for excess grants, we might possibly get on to the Report of the Public Accounts Committee either this afternoon or some other day.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): There is hardly any time for that this afternoon. This is the next business on the Order Paper for the day and I am quite agreeable, if no objection is taken, to meet the suggestion of the Honourable Member and allow this item to be held over either for today at a later hour if there is time, or to a subsequent day. But I wanted an assurance that Government will provide a day to enable the House to discuss this matter.

The Honourable Sir George Schuster: Sir, I think the position is that if it is not reached today, it will certainly be put down on the List o Government business the next official day.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): That is th assurance I wanted. I take it that there is no objection to allowing th Public Accounts Committee's Report to stand over and to take up th Demands for excess and supplementary grants.

[Diwan Bahadur Harbilas Sarda.]

clause 69. This, Sir, I say is superfluous. If a person signs a false statement there is provision in the Indian Penal Code to deal with such person. Under the law he has to file a statement before a Registrar giving certain particulars, and the law provides that those particulars shall be conclusive evidence against the person filing the statement. Those particulars are therefore filed for the purpose of confirming evidence. Now, Sir, section 199 of the Indian Penal Code provides a penalty for making false statements. This is what it says:

"Whoever, in any declaration made or subscribed by him, which declaration any court of justice, or any public servant or other person, is bound or authorised by law to receive as evidence of any fact, makes any statement which is false, or does not believe to be true, touching any point material to the object for which the declaration is made or used shall be punished in the same manner as if he gave false evidence."

Therefore, Sir, it is not necessary to have a separate provision here.

As regards the second part, *i.e.*, "whoever makes an incomplete statement or makes a statement which he does not believe to be complete" shall be punishable. Now, Sir, in the first place this is a very drastic treatment of a person who, owing to some misinformation or something, makes a statement which is not quite complete, but the remedy for that is provided even in this very Bill. Clause 57 of this Bill gives the particulars which a firm or a partner has to furnish to the Registrar for the registration of the firm, that is to say, all particulars have to be supplied, the firm's name, the place or principal place of business of the firm, the names of any other places where the firm carries on business, the date on which each partner joined the firm, the names in full and permanent addresses of the partners, the duration of the firm and so on. Then clause 58 says that:

"When the Registrar is satisfied that the provisions of section 57 have been duly complied with, he shall record an entry of the statement in a register called the Register of Firms, and shall file the statement."

Therefore, the remedy is there. If full and complete information is not furnished to the Registrar, if the statement given by a firm or a partner does not contain full particulars which are required by section 57, the Registrar will not accept the thing and will not register it. That is quite sufficient. Therefore, Sir, without prolonging my speech I say that the provision is in the Bill itself and also on account of the existence of other provisions elsewhere to deal with people who make false statements, it is not necessary to have this penal clause which is numbered 69.

Mr. S. G. Jog: Sir, I have given notice of a similar amendment. Now, this clause 69 is a penal provision for a supposed optional measure. This penal provision of punishing a man not only for giving a false statement but also for giving an incomplete statement, I think, is another way of making the provision compulsory and making it optional only in name.

As regards the incompleteness, if the particulars that are required are found to be incomplete by the Registrar or any other authority empowered to collect such particulars, then the firm or the partner can be called upon to furnish all the other necessary information to make the statement complete, and in that case after serving him with notice, a statement will be taken and the information can be made complete. Since this law is already too drastic, I think the provision for punishing people for filing

incomplete information should be deleted for the present and powers may be given to the Registrar to call upon the man to make the particulars complete if such powers are wanting in the existing law. I therefore support the amendment for the deletion of the words "or containing particulars which he knows to be incomplete or does not believe to be complete" in clause 69.

Mr. President: The amendment now before the House is for the deletion of the whole clause. That Amendment has not yet been reached.

The Honourable Sir Brojendra Mitter: Sir, this is the usual provision. Wherever you provide for registration there must be some penalty for furnishing false particulars. This is taken from the Indian Companies Act and from English Acts with slight variations. There is nothing novel about the provision of clause 69. It is said that clause 58 provides the remedy. The Registrar may refuse to register if the particulars are not complete. But how is the Registrar to know? One of the particulars to be given is places of business. The principal place of business is at one place and there are several branches. Supposing there are five branches and only two are disclosed, how is the Registrar to know that there are three other branches? That is an incomplete statement. So, section 58, which says that the Registrar may refuse to register, does not cover a case where the Registrar has no means of knowing the particulars. Therefore provision has to be made for default in the matter of submitting complete particulars.

Diwan Bahadur Harbilas Sarda: But it will have to be proved that it was incomplete before the man could be punished. Somehow or other that information has to be obtained.

The Honourable Sir Brojendra Mitter: The man who wants to prove that the particulars were incomplete will have to prove it, but it is not the function of the Registrar.

Diwan Bahadur Harbilas Sarda: It is the function of the prosecutor. In order to get that man punished he will have to prove this, and therefore the burden lies on him. That is quite sufficient.

Mr. President: The question that I have to put now is that clause 69 be omitted.

The motion was negatived.

Mr. S. G. Jog: As regards the penalty for false information, I have nothing to say. I think that a man who deliberately gives false information should be penalised, but as regards incomplete information, I think that portion of the clause which relates to that should be deleted. As I have already said, the law as it is is sufficiently drastic, and this is a sort of innovation. I think for the present it should not be made very rigid, but if after some experience it is found that there are cases where deliberate incomplete information is given, measures may be taken to amend the law if considered necessary. With these observations I move:

"In clause 69 the words 'or containing particulars which he knows to be incomplete or does not believe to be complete' be omitted."

DEMANDS FOR EXCESS GRANTS FOR 1929-30.

CIVIL.

IRRIGATION, NAVIGATION, EMBANKMENT AND DRAINAGE WORKS.

The Honourable Sir George Schuster (Finance Member): Sir, I beg to move:

"That an excess grant of Rs. 3,21,754 be voted by the Assembly to regularise the expenditure chargeable to Revenue actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Irrigation, Navigation, Embankment and Drainage Works'."

The motion was adopted.

INTEREST ON ORDINARY DEBT, AND REDUCTION OR AVOIDANCE OF DEBT.

The Honourable Sir George Schuster: Sir, I beg to move:

"That an excess grant of Rs. 78,98,225 be voted by the Assembly to regularise the expenditure chargeable to Revenue actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Interest on Ordinary Debt, and Reduction or Avoidance of Debt'."

The motion was adopted.

PUBLIC SERVICE COMMISSION.

The Honourable Sir George Schuster: Sir, I beg to move:

"That an excess grant of Rs. 411 be voted by the Assembly to regularise the expenditure chargeable to Revenue actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Public Service Commission'."

The motion was adopted.

FINANCE DEPARTMENT.

The Honourable Sir George Schuster: Sir, I beg to move:

"That an excess grant of Rs. 2,973 be voted by the Assembly to regularise the expenditure chargeable to Revenue actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Finance Department'."

The motion was adopted.

ADMINISTRATION OF JUSTICE.

The Honourable Sir George Schuster: Sir, I beg to move:

"That an excess grant of Rs. 644 be voted by the Assembly to regularise the expenditure chargeable to Revenue actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Administration of Justice'."

The motion was adopted.

LIGHTHOUSES AND LIGHTSHIPS.

The Honourable Sir George Schuster: Sir, I beg to move:

"That an excess grant of Rs. 2,78,423 be voted by the Assembly to regularise the expenditure chargeable to Revenue actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Lighthouses and Lightships'."

Diwan Bahadur T. Rangachariar (South Arcot *cum* Chingleput: Non-Muhammadan Rural): Sir, may I trouble the Honourable Member for information as to this large disparity between the Budget estimates and the actual expenditure?

The Honourable Sir George Schuster: Sir, I had refrained from giving any detailed explanation in moving these excess grants because the whole matter is very clearly explained in paragraph 7 of the Report of the Public Accounts Committee on the accounts for 1929-30. I would refer my Honourable friend to that paragraph which, I think, he will find clearly states what the position is. The item on which he has now asked for information is item 6 in paragraph 7 which runs as follows:

"The original amount provided for transfer to the General Reserve Fund of Lighthouses and Lightships was Rs. 1,26,800. The actual surplus realised and transferred during the year was Rs. 5,57,518, the excess being due to an increase in receipts and some decrease in expenditure."

I would point out to my Honourable friend that there is an automatic provision according to which the surplus receipts in respect of fees which were realised for meeting the cost of lighthouses and lightships have to be transferred to a reserve fund. The principle on which this service is run is that it should not be run at a profit but that the fees should be adjusted in order to cover the actual cost. Therefore, if a surplus is earned in any year, it is transferred to a reserve fund. If it was found that the reserve fund was attaining to more than reasonable figures, the fees would be reduced. In this particular instance, therefore what appears as a vote for meeting excess expenditure does not really represent any expenditure at all. It merely has to figure as expenditure because it has to be transferred from revenue to the reserve fund. I am glad in one way that my Honourable friend has raised the point, because it enables me to point out that although anyone who looks at these excess demands might get the impression that a large amount of expenditure had actually been incurred in excess of the voted grants, nevertheless in many cases they really only represent adjustments. In certain cases, for instance, the expenditure under voted heads has been exceeded while expenditure under non-voted heads has been less than was anticipated. None-the-less, in order to meet that sort of excess, we have to come before the Assembly to approve an excess grant. In other cases, as in the case to which my Honourable friend has referred, the excess demand does not really represent expenditure at all but merely provides for a certain method of dealing with receipts which were more than were anticipated.

Mr. President: The question is:

"That an excess grant of Rs. 2,78,423, be voted by the Assembly to regularise the expenditure chargeable to Revenue actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Lighthouses and Lightships'."

The motion was adopted.

MINT.

The Honourable Sir George Schuster: Sir, I beg to move:

"That an excess grant of Rs. 1,03,746 be voted by the Assembly to regularise the expenditure chargeable to Revenue actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Mint'."

The motion was adopted.

RAJPUTANA.

The Honourable Sir George Schuster: Sir, I beg to move:

"That an excess grant of Rs. 1,199 be voted by the Assembly to regularise the expenditure chargeable to Revenue actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Rajputana'."

The motion was adopted.

CAPITAL OUTLAY ON LIGHTHOUSES AND LIGHTSHIPS.

The Honourable Sir George Schuster: Sir, I beg to move:

"That an excess grant of Rs. 4,821 be voted by the Assembly to regularise the expenditure chargeable to Capital actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Capital Outlay on Lighthouses and Lightships'."

The motion was adopted.

DELHI CAPITAL OUTLAY.

The Honourable Sir George Schuster: Sir, I beg to move:

"That an excess grant of Rs. 1,22,295 be voted by the Assembly to regularise the expenditure chargeable to Capital actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Delhi Capital Outlay'."

The motion was adopted.

LOANS AND ADVANCES BEARING INTEREST.

The Honourable Sir George Schuster: Sir, I beg to move:

"That an excess grant of Rs. 8,95,936 be voted by the Assembly to regularise the expenditure actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Loans and Advances bearing Interest'."

The motion was adopted.

POSTS AND TELEGRAPHS.

INDIAN POSTS AND TELEGRAPHS DEPARTMENT.

The Honourable Sir George Schuster: Sir, I beg to move:

"That an excess grant of Rs. 17,74,774 be voted by the Assembly to regularise the expenditure chargeable to Revenue actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Indian Posts and Telegraphs Department'."

Diwan Bahadur T. Rangachariar: I am sorry to trouble the Honourable Member again. I have not got my copy of the Public Accounts Committee Report. I do not know if there is any explanation in respect of this item also. Will the Honourable Member kindly explain this item also?

The Honourable Sir Joseph Bhore (Member for Industries and Labour): Sir, the explanation is furnished on page 4 of the Report of the Public Accounts Committee and, if my Honourable friend likes it, I will read it.

Diwan Bahadur T. Rangachariar: Yes, please. I have missed my copy.

The Honourable Sir Joseph Bhore: It is just as well that I should read it. Item 12 on page 4 runs thus:

"The excess was chiefly due to an under-estimate of the requirements under 'Stamps, Post cards, etc.' and under 'Stationery and Printing' and to an inadequate appreciation of the effect of revisions of pay and other concessions sanctioned in recent years. We are assured that estimating has now considerably improved and that sufficient experience has now been gained to make it possible for the estimating officers to make a fairly accurate allowance for the effect of revisions of pay and other concessions."

Mr. President: The question is:

"That an excess grant of Rs. 17,74,774 be voted by the Assembly to regularise the expenditure chargeable to Revenue actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Indian Posts and Telegraphs Department'."

The motion was adopted.

RAILWAYS.

RAILWAY BOARD.

The Honourable Sir George Schuster: I beg to move:

"That an excess grant of Rs. 2,196 be voted by the Assembly to regularise the railway expenditure chargeable to Revenue actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Railway Board'."

The motion was adopted.

WORKING EXPENSES—ADMINISTRATION.

The Honourable Sir George Schuster: I beg to move:

"That an excess grant of Rs. 12,62,820 be voted by the Assembly to regularise the railway expenditure chargeable to Revenue actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Working Expenses—Administration'."

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, I read very carefully the Report of the Public Accounts Committee in connection with railway expenditure, and I found that they have given a balance sheet only for the N. W. Railway. The balance sheets for other railways are not given in this Report and even in this one balance sheet, I notice that in N. W. Railway, the net loss is Rs. 1,03,75,356. I notice that the ratio of working expenditure to the total is 64 per cent., which I think is rather excessive. I think the reasonable expenditure would be 50 per cent., and if they reduced the expenditure to 50 per cent., then this additional loss of one crore and odd would not have been incurred. I must say that the Government have not supplied us with sufficient material to judge whether the extra expenditure is justified or not. It is unfair to ask the House to vote on this grant without giving sufficient data.

Sir Alan Parsons (Chief Commissioner, Railways): As is explained in the Public Accounts Committee's Report item 14, page 5, this excess of 12 lakhs odd, which is considerably less than one per cent. of the expenditure, is practically entirely due to the fact that a strike took place on the G. I. P. Railway in the closing months of the year, and that involved us in extra expenditure. Apart from it, our Budgeting was very close. This has no connection with the losses on the N. W. Railway, Commercial and Strategic lines during that year.

Dr. Ziauddin Ahmad: In this appendix supplied to us, the balance sheet only of the N. W. Railway is given and the balance sheet of the G. I. P. Railway is not supplied to us.

The Honourable Sir George Schuster: I might point out to my Honourable friend that these accounts that are supplied with the Report of the Public Accounts Committee do not purport to give a picture of the whole of the railway accounts. My Honourable friend will have to go to the railway accounts for that. He has referred to a particular appendix where a particular form of balance sheet and profit and loss account was furnished by the Railway Department with reference to paragraph 14 of the Public Accounts Committee's Report, on the accounts for 1928-29. That statement was put in there in the appendix with reference to the particular point raised in the previous volume of the Public Accounts Committee's Report.

Mr. President: The question is:

"That an excess grant of Rs. 12,62,820 be voted by the Assembly to regularise the railway expenditure chargeable to Revenue actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Working Expenses—Administration'."

The motion was adopted.

APPROPRIATION FROM DEPRECIATION FUND.

The Honourable Sir George Schuster: I beg to move:

"That an excess grant of Rs. 26,18,314, be voted by the Assembly to regularise the railway expenditure chargeable to Revenue actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Appropriation from Depreciation Fund'."

The motion was adopted.

APPROPRIATION FROM THE RESERVE FUND.

The Honourable Sir George Schuster: I beg to move:

"That an excess grant of Rs. 1,21,91,706 be voted by the Assembly to regularise the railway expenditure chargeable to Revenue actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Appropriation from the Reserve Fund'."

Diwan Bahadur T. Rangachariar: May I know the exact state of the Reserve Fund? Is anything left for appropriation hereafter?

Sir Alan Parsons: At the moment there is a sum of about 4 crores left. But I fear that at the end of this year, no balance will be left.

Dr. Ziauddin Ahmad: May I just point out that the appropriation from the Reserve Fund practically means a net loss and the net loss is to be covered by the appropriation from the Reserve Fund. It was estimated that the net loss would be about 86 lakhs, 30 thousand. But we find that the actual net loss was 2 crores, 8 lakhs, one thousand and seventy. The deficit is rather a big one. I think it is not a good policy for any business to fall back, from year to year, on its reserve. As has been pointed out just now, there will be no reserve left, and this shows really great mismanagement on the part of the administrators of the railways. There was

a net reserve of about 18 lakhs odd three years ago, now practically the whole of that reserve is exhausted. The railway is one of those firms which are really losing money heavily. This is a thing which requires very careful consideration and scrutiny. I have repeatedly pointed out that a good deal of money is misspent on the running line and the Railway Retrenchment Committee, who wanted to look into the expenditure of the running lines, was not allowed to do so. The Retrenchment Committee was clearly given to understand that the Government wanted to appoint an expert committee who would examine the running line in the months of October and November, and since the members of the Retrenchment Committee were Members of the Assembly, they would have no time during those months to visit the head and divisional offices of the railways. On this understanding,—or misunderstanding—the Railway Retrenchment Committee finished the work without examining how the money is being misspent on running lines. I understand that a sum of 36 lakhs a year is given to every Agent to spend in his own way on miscellaneous account for which no regular budget is made and no regular sanction is obtained from the higher authorities. I will expect the Member in charge of Railways to give me the accurate figures. We must be given an assurance that the money is not misspent, but owing to the very fact that there is such a deficit, it is exceedingly necessary that the Railway Administration should not consider these things as their own preserve to be kept confidential from the eyes of the public. Every effort is made to keep the Members of the Assembly in the dark. I have even been given to understand that certain officials have issued instructions to their employees that they are not to see the Members of the Assembly or give them any facts. That is by the way, but we will certainly welcome details at the time of the Budget grant. We the Members of the Assembly are really the Directors of this big concern called the Railways, and I strongly object to anything being kept confidential from us, especially when they come to us with a demand for such a big sum to make up the deficit.

Sir Alan Parsons: Sir, at this late hour of the day I will confine my remarks to those points which are relevant to the excess grant for which we are asking. I may say at once to the Honourable Member that I am afraid I cannot accept the fact that we had in this year to withdraw a sum of rather over 2 crores from the Reserve for payment of our contribution to general revenues as showing that Railways were run at a loss in this year. I have not got the exact figure in my mind, but our total contribution for that year was something between 5 and 6 crores. We actually therefore earned a dividend over and above our interest charges of something like 4 crores. We could not pay the full dividend from earnings in that year to general revenues, and we used the Reserve fund for its proper purpose, the purpose of equalising dividends.

So far as his charges of mismanagement are concerned, the Public Accounts Committee I think took a very fair view when they pointed out that this particular reduction in our profit was due to a fall in our traffic, in the closing months of the year which we had no reason to expect. We originally came before the Assembly for a supplementary grant but owing to the decline in traffic it was not sufficient; we cannot be held responsible for a decline in traffic; and the mismanagement, if any, was a mismanagement by Providence.

PAYMENTS TO PROVINCIAL GOVERNMENTS ON ACCOUNT OF ADMINISTRATION OF AGENCY SUBJECTS.

The Honourable Sir George Schuster: Sir, I beg to move:

"That a supplementary sum not exceeding Rs. 1,91,000 be granted to the Governor General in Council to defray the charges that will come in course of payment during the year ending the 31st day of March, 1932 in respect of 'Payments to Provincial Governments on account of Administration of Agency Subjects'."

The motion was adopted.

POLICE.

The Honourable Sir George Schuster: Sir, I beg to move:

"That a supplementary sum not exceeding Rs. 5,000 be granted to the Governor General in Council to defray the charges that will come in course of payment during the year ending the 31st day of March, 1932, in respect of 'Police'."

The motion was adopted.

AGRICULTURE.

The Honourable Sir George Schuster: Sir, I beg to move:

"That a supplementary sum not exceeding Rs. 2,23,000 be granted to the Governor General in Council to defray the charges that will come in course of payment during the year ending the 31st day of March, 1932, in respect of 'Agriculture'."

The motion was adopted.

MINT.

The Honourable Sir George Schuster: Sir, I beg to move:

"That a supplementary sum not exceeding Rs. 29,41,000 be granted to the Governor General in Council to defray the charges that will come in course of payment during the year ending the 31st day of March, 1932, in respect of 'Mint'."

Diwan Bahadur T. Rangachariar: Sir, I should like to have some more information on this subject: I find it rather difficult to follow the statement placed before the Standing Finance Committee. Some reference was made to some small coins: I could not understand it and if the Honourable Member will kindly explain what it is due to, I shall be glad.

The Honourable Sir George Schuster: I am sorry, Sir, that my Honourable friend finds it difficult to understand the information which has been supplied. I had hoped that it would have been possible for all Honourable Members to follow it. In this case the excess demand is required because there has been a nominal loss on the circulation of nickel and bronze coins. The nominal loss is incurred when on balance there is a return of those coins from circulation. The coins when issued are taken at the face value of the money which they represent; but when they are returned they have to be taken back at the value of the metal content. There is of course a very large difference between the value of metal content and the face value of the coin. My Honourable friend probably

knows that as a result of the fall in commodity prices which has taken place over the last 24 months, there has been on balance, a very large return of coin from circulation. We felt that first in the return of silver rupees, and recently there has been on balance—an unusual factor for us—a return of small coin, small bronze and nickel coin.

The motion was adopted.

SUPERANNUATION ALLOWANCES AND PENSIONS.

The Honourable Sir George Schuster: Sir, I beg to move:

"That a supplementary sum not exceeding Rs. 5,32,000 be granted to the Governor General in Council to defray the charges that will come in course of payment during the year ending the 31st day of March, 1932, in respect of 'Superannuation Allowances and Pensions'."

The motion was adopted.

MISCELLANEOUS.

The Honourable Sir George Schuster: Sir, I beg to move:

"That a supplementary sum not exceeding Rs. 4,19,000 be granted to the Governor General in Council to defray the charges that will come in course of payment during the year ending the 31st day of March, 1932 in respect of 'Miscellaneous'."

The motion was adopted.

REFUNDS.

The Honourable Sir George Schuster: Sir, I beg to move:

"That a supplementary sum not exceeding Rs. 13,65,000 be granted to the Governor General in Council to defray the charges that will come in course of payment during the year ending the 31st day of March, 1932, in respect of 'Refunds'."

The motion was adopted.

EXPENDITURE IN ENGLAND UNDER THE CONTROL OF THE SECRETARY OF STATE.

The Honourable Sir George Schuster: Sir, I beg to move:

"That a supplementary sum not exceeding Rs. 33,000 be granted to the Governor General in Council to defray the charges that will come in course of payment during the year ending the 31st day of March, 1932, in respect of 'Expenditure in England under the Control of the Secretary of State'."

The motion was adopted.

LOANS AND ADVANCES BEARING INTEREST.

The Honourable Sir George Schuster: Sir, I beg to move:

"That a supplementary grant not exceeding Rs. 6,78,00,000 be granted to the Governor General in Council to defray the charges that will come in course of payment during the year ending the 31st day of March, 1932, in respect of 'Loans and Advances bearing Interest'."

Diwan Bahadur T. Rangachariar: May I ask, Sir, whether this sum represents repayment of loans or repayment of interest alone?

Mr. President: The question is:

"That an excess grant of Rs. 1,21,91,706 be voted by the Assembly to regularise the railway expenditure chargeable to Revenue actually incurred in excess of the voted grant in the year 1929-30 in respect of 'Appropriation from the Reserve fund'."

The motion was adopted.

DEMANDS FOR SUPPLEMENTARY GRANTS.

OPIUM.

The Honourable Sir George Schuster (Finance Member): Sir, I beg to move:

"That a supplementary sum not exceeding Rs. 7,48,000 be granted to the Governor General in Council to defray the charges that will come in course of payment during the year ending the 31st day of March, 1932, in respect of 'Opium'."

The motion was adopted.

STAMPS.

The Honourable Sir George Schuster: Sir, I beg to move:

"That a supplementary sum not exceeding Rs. 1,000 be granted to the Governor General in Council to defray the charges that will come in course of payment during the year ending the 31st day of March, 1932, in respect of 'Stamps'."

The motion was adopted.

IRRIGATION, NAVIGATION, EMBANKMENT AND DRAINAGE WORKS.

The Honourable Sir George Schuster: Sir, I beg to move:

"That a supplementary sum not exceeding Rs. 69,000 be granted to the Governor General in Council to defray the charges that will come in course of payment during the year ending the 31st day of March, 1932, in respect of 'Irrigation, Navigation, Embankment and Drainage Works'."

The motion was adopted.

INTEREST ON MISCELLANEOUS OBLIGATIONS.

The Honourable Sir George Schuster: Sir, I beg to move:

"That a supplementary sum not exceeding Rs. 2,30,000 be granted to the Governor General in Council to defray the charges that will come in course of payment during the year ending the 31st day of March, 1932, in respect of 'Interest on Miscellaneous Obligations'."

Diwan Bahadur T. Rangachariar: Sir, may I ask the Honourable Member whether in the near future he expects to pay a lower rate of interest on Government loans?

The Honourable Sir George Schuster: Sir, I am afraid I must reply to my Honourable friend's question that I do not claim to be able to prophesy with certainty, but if the tendency which we have observed in the course of the prices of Government securities during the last few weeks is prolonged, undoubtedly the rate of interest that we shall have to pay on Government loans will be less than during the last 12 months. If my

Honourable friend has followed the Press reports of the market in Government securities he will have noticed that in the last few weeks and especially in the last few days there has been a substantial appreciation in the prices of Government securities, an appreciation which I myself think is entirely justified.

The motion was adopted.

STAFF, HOUSEHOLD AND ALLOWANCES OF THE GOVERNOR GENERAL.

The Honourable Sir George Schuster: Sir, I beg to move:

"That a supplementary sum not exceeding Rs. 44,000 be granted to the Governor General in Council to defray the charges that will come in course of payment during the year ending the 31st day of March, 1932, in respect of 'Staff, Household and Allowances of the Governor General'."

The motion was adopted.

COUNCIL OF STATE.

The Honourable Sir George Schuster: Sir, I beg to move;

"That a supplementary sum not exceeding Rs. 35,000 be granted to the Governor General in Council to defray the charges that will come in course of payment during the year ending the 31st day of March, 1932, in respect of 'Council of State'."

Diwan Bahadur T. Rangachariar: May I ask if this figure has taken into account the very generous concessions made by the Members of the Council of State that they will forego first-class compartments?

Sir Lancelot Graham: Yes.

The motion was adopted.

LEGISLATIVE ASSEMBLY AND LEGISLATIVE ASSEMBLY DEPARTMENT.

The Honourable Sir George Schuster: Sir, I beg to move:

"That a supplementary sum not exceeding Rs. 1,03,000 be granted to the Governor General in Council to defray the charges that will come in course of payment during the year ending the 31st day of March, 1932, in respect of 'Legislative Assembly and Legislative Assembly Department'."

Mr. S. G. Jog: Will the Honourable Member say what amount of this is due to the November session?

The Honourable Sir George Schuster: My Honourable friend is himself a Member of the Standing Finance Committee and if he has read the papers which were circulated to the Standing Finance Committee, he would have been able to answer that question himself.

The motion was adopted.

COMMERCE DEPARTMENT.

The Honourable Sir George Schuster: Sir, I beg to move:

"That a supplementary sum not exceeding Rs. 17,000 be granted to the Governor General in Council to defray the charges that will come in course of payment during the year ending the 31st day of March, 1932, in respect of 'Commerce Department'."

The motion was adopted.

The Honourable Sir George Schuster: It is a capital sum. It represents really the amount which the Central Government has had to find owing to the deterioration of provincial finances for advances to be made to the Provincial Governments. It represents advances against the Provincial Loans Fund which are required in excess of the estimates during this year.

Mr. B. Das: Will the Provincial Governments pay interest on these advances?

The Honourable Sir George Schuster: I am very surprised to get such a question from so well-informed a Member of this House as my friend. He surely is familiar with the procedure governing advances to all Provincial Governments. He knows that under the Provincial Loans Fund procedure the Central Government charges to the Provincial Governments a commercial rate of interest based on the Central Government's own borrowing rate.

Mr. S. G. Jog: Are the Government of India satisfied with the necessity for such loans?

Seth Haji Abdoola Haroon: May I know whether these advances made to Provincial Governments are meant for capital expenditure or for current expenditure?

The Honourable Sir George Schuster: It is difficult to give an accurate answer to that question in a few words. This item represents the sum of all the transactions involved between the Central Government and the Provincial Governments. In certain cases where Provincial Governments contemplated financing capital expenditure out of their own balances, they have had to withdraw those balances; in other cases, it may in the end represent in actual fact, for all practical purposes, advances to cover deficiencies of revenue. I think one has got to acknowledge that fact. If my friend wants a detailed account of exactly how this sum is made up, he will find from other statements published by Governments materials to answer his question.

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Thursday the 18th February, 1932.

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