

Friday, 2nd October, 1931

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THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)

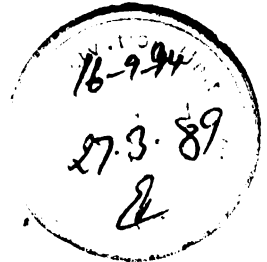
Volume VI, 1931

(23rd September to 3rd October, 1931)

SECOND SESSION

OF THE

FOURTH LEGISLATIVE ASSEMBLY
1931



SIMLA
GOVERNMENT OF INDIA PRESS
1932

Legislative Assembly.

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LEGISLATIVE ASSEMBLY.

Friday, 2nd October, 1931.

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

QUESTIONS AND ANSWERS.

SELECTION GRADE POSTS IN THE SIMLA GENERAL POST OFFICE.

1092. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Is it a fact that there are eight posts of selection grade of 160—250 in the Simla General Post Office ?

(b) Is it a fact that out of the eight posts seven are held by Hindus and one by a Christian Sub-Post Mistress ?

(c) In view of the Muslims constituting a majority in population in the Punjab and North-West Frontier Circle, are Government prepared to order that at least half of the selection grade appointments should be held by Muslims in the Simla General Post Office ?

Sir Hubert Sams : (a) There are nine, including the town sub-post offices.

(b) Of the nine, one is held by a Muslim, one by a Christian and the remainder by Hindus.

(c) The composition of the selection grade cadre, which is a Circle one, depends on the fitness for promotion to that grade and cannot be regulated on a communal basis. Postings also are not made on communal considerations.

APPOINTMENT OF MUSLIMS IN THE SIMLA GENERAL POST OFFICE.

1093. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Is it a fact that both the Town Inspectors in the Simla General Post Office are Hindus ?

(b) Is it a fact that the Head Clerk (Correspondence) and his six assistants in the Correspondence Branch, Simla, are all Hindus ?

(c) Is it a fact that the accountant of the Simla General Post Office is a Hindu ?

(d) Is it a fact that out of the four accounts clerks three are Hindus and only one is a Muslim ?

(e) Are Government prepared to order that at least half of the staff in the above cadres should be Muslims ?

Sir Hubert Sams : (a) Yes, but one of them is under orders of transfer and a Muslim is coming in his place.

(b) The Head Clerk is a Hindu. Two of his assistants are not Hindus.

(1877)

(c) Yes, he being the most senior official in the office who has passed the Post Office Accountants' examination.

(d) Yes. They are employed in the Accounts Branch because they have passed the Post Office Accountants' examination.

(e) Postings are not made on communal considerations.

APPOINTMENT OF MUSLIMS IN THE SIMLA GENERAL POST OFFICE.

1094. *Kunwar Hajee Ismail Ali Khan (on behalf of Shaikh Fazal Haq Piracha) : (a) Will Government be pleased to state the period for which the posts of Accountant and Head Clerk (Correspondence) in the Simla General Post Office have been held by Hindus during the last 10 years ?

(b) Are Government prepared to order that the posts of Accountant and Head Clerk (Correspondence) should be held by Muslims and Hindus, alternatively, every three years ?

Sir Hubert Sams : (a) Throughout the last ten years.

(b) Postings are not made on communal consideration.

APPOINTMENT OF MUSLIMS IN THE SIMLA GENERAL POST OFFICE.

1095. *Kunwar Hajee Ismail Ali Khan (on behalf of Shaikh Fazal Haq Piracha) : (a) Will Government be pleased to state whether the following composition of the staff in the Simla General Post Office is correct ?

Appointment.	Hindu.	Muslim.	Total.
Clerks	69	7	76
Reserve clerks	14	1	15
Post-men	84	1	85
Officials of 45—85 grade	8	—	8
Inferior servants	80	3	83
Season servants	38	—	38
Runners	79	1	80
Sub-postmasters of time-scale	10	1	11
Grand total	382	14	396

(b) Will Government be pleased to state reasons for the above negligible proportion of the Muslim staff in the Simla General Post Office ?

(c) Is it a fact that the one Muslim postman out of 85 was confirmed after his having worked as a candidate for over ten years ?

(d) Is it a fact that the appointment of one Muslim postman is due to the fact that a Muslim was required to deliver letters in the Beef Market where no Hindu would go ?

(e) Are Government prepared to order that the posts referred to above should be filled up in rotation for three years by Muslims and Hindus ?

Sir Hubert Sams : (a) Information received from the Postmaster General shows that the composition is not correct, the actual totals of the categories of staff specified by the Honourable Member under the control of the Postmaster, Simla, being 805 and not 382 Hindus, 25 and not 14 Muslims, eight Sikhs and six others.

(b) The comparatively small number of Muslims is attributed to the difficulty experienced in the past in obtaining suitable candidates of that community in this place. The matter is receiving the attention of the Postmaster General.

(c) and (d). No. He was confirmed within a year of his joining the Department. Another Muslim has since been recruited to act as a postman and he will also be confirmed when his turn comes.

(e) No, postings are not made on communal considerations.

Sir Muhammad Yakub : Will the Honourable Member be prepared to take qualified Muslim candidates who come forward ?

Sir Hubert Sams : Yes, Sir.

NOMINATION FOR SELECTION GRADE OF CANDIDATES IN THE DELHI GENERAL POST OFFICE.

1096. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Has the attention of Government been drawn to an editorial note on pages 2 and 3 of the *Postal Advocate*, Delhi, September, 1931 issue ?

(b) Is it a fact that Rai Sahib Iqbal Nath, acting Postmaster, Delhi, nominated three Hindus, including one matriculate, for the selection grade examination ignoring several Muslim undergraduates and graduates including one Muslim M.A. fulfilling the conditions of the examination ?

(c) Is it a fact that some Muslims protested against the unjustified nomination of Hindus to the Postmaster General, Lahore ?

(d) Are Government prepared to inquire into the full facts of the cases and to call for fresh nominations of deserving officials of the Delhi General Post Office after cancelling the previous nominations ?

Sir Hubert Sams : (a) Government have seen the article.

(b), (c) and (d). Government have no information. The matter is within the competence of the Postmaster General.

APPOINTMENT CLERK IN THE DELHI GENERAL POST OFFICE.

1097. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Is it a fact that the post of Appointment Clerk of the Delhi General Post Office was held by Hindus for 18 years ?

(b) Is it a fact that according to recent orders the Appointment Clerk will in future be borne on the establishment of the Correspondence Branch instead of the Accounts Branch ?

(c) Is it a fact that a Muslim was entrusted with the duties of Appointment Clerk of the Delhi General Post Office only a couple of months ago ?

(d) Is it a fact that Rai Sahib Iqbal Nath tried to retransfer these duties to a Hindu in the Correspondence Section instead of transferring the present Muslim incumbent of the post to that section ?

(e) Are Government prepared to order that the charge of the Appointment Branch in the Delhi General Post Office is held by Muslims and non-Muslims in rotation for every three years ?

Sir Hubert Sams : (a), (c) and (d). Government have no information. The matter is within the competence of the Postmaster General, to whom a copy of these parts of the question is being sent.

(b) The orders are that appointment work should be done in the correspondence section of a post office.

(e) Government admit no claim to the charge of a branch on communal grounds and cannot undertake to make the order proposed by the Honourable Member.

ALLEGATIONS OF COMMUNAL BIAS IN THE BALUCHISTAN POSTAL DIVISION.

1098. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal-Haq Piracha) : (a) Has the attention of Government been drawn to an article entitled "Hindu Rajia in the Postal Department of Baluchistan" published on page 5 of September, 1931 issue of the *Postal Advocate*, Delhi ?

(b) Is it a fact that several Muslim applicants for leave were asked to pay the travelling allowance of their substitutes owing to stringency of funds in 1930, whereas several Hindu officials were granted leave in the same year at Government expense ?

(c) Is it a fact that the Hindu officials named in para. 3 of the said article have either never served at any of the out-posts or not completed their term, whereas the rules were strictly enforced in the case of Muslims ?

(d) Is it a fact that since the assumption of charge of the Baluchistan Division by Mr. Giyan Dave and his Hindu Head Clerk not a single Muslim has been made permanent ?

(e) Are Government prepared to inquire into the allegations of communal bias against Mr. Giyan Dave, as contained in the said article and take suitable action in the matter ?

Sir Hubert Sams : (a) Government have seen the article.

(b), (c) and (d). Government have no information. If any person connected with the Department has a grievance, it is open to him to represent it through the proper official channel.

(e) Government will take cognisance of representations made through the prescribed channel.

COMMUNAL COMPOSITION OF POSTAL STAFF IN CERTAIN POST OFFICES.

1099. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Has the attention of Government been drawn to the tables of communal composition of postal staff in the Karachi, Delhi and Calcutta General Post Offices and in the Bengal Circle as published in the September, 1931 issue of the *Postal Advocate*, Delhi ?

(b) Will Government be pleased to state whether the figures given therein are correct, and, if not, will Government please state the correct figures ?

(c) What steps do Government contemplate to take to avoid a preponderance of non-Muslims in the said offices and Circle ?

Sir Hubert Sams : (a) Government have seen the tables.

(b) Government have no information.

(c) Orders are in force for the adjustment of communal inequalities in new recruitment. Promotions and postings are not made on communal considerations.

PAUCITY OF MUSLIMS IN GOVERNMENT SERVICES IN THE NORTH-WEST FRONTIER PROVINCE.

1100. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Is it a fact that the Muslim Association of Peshawar Cantonment has recently brought to the notice of the Private Secretary to H. E. the Viceroy, the fact of Muslim paucity in the Government services in the North-West Frontier Province ?

(b) If the reply to the above is in the affirmative, will Government be pleased to state the action, if any, taken on the said representation and state the gist of the reply sent to the President of that Association ?

Mr. E. B. Howell : (a) The representation to which the Honourable Member is presumably referring related to the more general question of the employment of educated Muslims in Government service in the Punjab and North-West Frontier Province.

(b) It was transferred to the appropriate Department of the Government of India for disposal.

PREPONDERANCE OF HINDUS IN APPOINTMENTS IN THE NORTH-WEST FRONTIER PROVINCE, SIND AND BALUCHISTAN.

1101. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Will Government be pleased to state the correct interpretation of the term minority community in its application to provinces like the North-West Frontier Province and Sind and Baluchistan as promised by the Honourable Sir James Crerar in reply to a question by Sir Sahibzada Abdul Qaiyum ?

(b) Are Government aware that the present procedure of reservation of every third vacancy for all the minority communities, including the Muslims, has not proved effective in checking the predominance of the Hindu community ?

(c) Are Government prepared to order that until such time as a certain percentage of a certain community is not reached, recruitment of members of the other communities which preponderate should be stopped ?

The Honourable Sir James Crerar : (a) and (b). I would refer the Honourable Member to the reply given on the 28th September, 1931, to Maulvi Sayyid Murtuza Saheb Bahadur's starred question No. 1038.

(c) No.

APPOINTMENT OF MUSLIMS IN THE PESHAWAR GENERAL POST OFFICE.

1102. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Will Government be pleased to state the periods for which the posts of Accountant and Head Clerk (Correspondence) have been held by Hindus during the last six years in the Peshawar General Post Office ?

(b) Will Government be pleased to state whether the Deputy Postmaster and all the Assistant Postmasters in the Peshawar General Post Office are Hindus ?

(c) Is it a fact that the Sub-Postmaster, Peshawar City Post Office, the only selection grade office in the town, is held by a Hindu ?

(d) Is it a fact that the Muslims constitute 95 per cent. of the population of the North-West Frontier Province ?

(e) Is it a fact that the Town Inspector of Peshawar City Post Offices is a Hindu ?

(f) Are Government prepared to keep at least two-thirds of the important posts in Peshawar General Post Office to be filled up by Muslims ?

Sir Hubert Sams : (a), (b), (c) and (e). Government have not the information and do not propose to call for it for the reason stated in the reply to the following parts of the question.

(d) and (f). Even if the facts are as stated by the Honourable Member, Government cannot undertake to act as proposed by him, because postings are not made on the basis of communal representation.

APPOINTMENT OF MUSLIMS IN THE ACCOUNTS BRANCHES OF CERTAIN POST OFFICES.

1103. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Will Government be pleased to state separately the total clerical strength of the Accounts Branch of Lahore and Amritsar General Post Offices ?

(b) Will Government be pleased to state separately the number of Muslim clerks working in the Lahore and Amritsar General Post Offices in the Accounts Departments ?

(c) Will Government be pleased to state separately the periods for which the posts of Accountants have been held by Hindus in the Lahore, Amritsar, Ambala, Rawalpindi and Simla General Post Offices ?

(d) Are Government prepared to order that at least half of the posts of clerks in the Accounts Branches of the above offices should be filled up by the Muslims to learn accounts work enabling them to qualify for the accounts examination ?

Sir Hubert Sams : (a) to (c). Government have no information.

(d) The matter is within the competence of the Postmaster General, Punjab and North-West Frontier to whom a copy of the question is being sent. It may be mentioned, however, that postings and transfers are made according to the exigencies of the service and not on communal considerations.

REPLACEMENT OF HINDUS BY MUSLIMS IN CERTAIN APPOINTMENTS IN THE RAILWAY MAIL SERVICE, DELHI.

1104. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Is it a fact that according to the rules, an official of the selection grade should not hold charge of a particular post or office for more than three years ?

(b) Will Government be pleased to state the periods for which the present Head Clerk and the Head Record Clerk of the office of the Superintendent, R. M. S., 'D' Division, Delhi, have held charge of their present posts and whether their transfer is overdue ?

(c) Is it a fact that the present Head Clerk of the office of the Superintendent, R. M. S., 'D' Division, Delhi, has been in the same office for over ten years ?

(d) Will Government be pleased to state separately the periods for which the posts of (i) Head Clerk, (ii) Head Record Clerk of the office of the R. M. S., 'D' Division, Delhi, have been held by Hindus during the last six years ?

(e) Are Government prepared to order transfer of the existing incumbents of the posts, replacing them by Muslims for a like period ?

Sir Hubert Sams ; (a) No, the rule is that certain specified posts of Head Clerks should not be occupied by the same official continuously for more than three years at a time.

(b), (c) and (d). Government have no information. A copy of these parts of the question is being sent to the Postmaster General, Punjab and North-West Frontier.

(e) Whatever the facts may be and whatever action may be taken by the Postmaster General under the rules, postings are not made on the basis of communal representation.

APPOINTMENT OF MUSLIMS TO THE OFFICE OF THE DEPUTY ACCOUNTANT GENERAL, POSTS AND TELEGRAPHS, DELHI.

1105. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Will Government be pleased to state the communal composition of the undermentioned staff in the office of the Deputy Accountant-General, Posts and Telegraphs, Delhi ?—

(i) Superintendents, (ii) accountants, (iii) First Division clerks, (iv) Second Division clerks, (v) inferior servants.

(b) Will Government be pleased to state the communal composition of the above cadres of the staff entertained in the office of Deputy Accountant General, Posts and Telegraphs, Delhi, during the last three years ?

(c) Will Government be pleased to state the communal composition of the above cadres of the staff employed as temporary establishment in the office of the Deputy Accountant General, Posts and Telegraphs, Delhi ?

(d) Are Government prepared to order the increased entertainment of Muslims in the office of the Deputy Accountant General, Posts and Telegraphs, Delhi, to avoid preponderance of any one class or community ?

The Honourable Sir George Schuster : Enquiry is being made and a reply will be sent to the Honourable Member in due course.

DEFALCATION OF EXCESS FARE MONEY ON THE EAST INDIAN RAILWAY.

1106. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Will Government be pleased to state if it is a fact that one Mr. Duff, an employee of the Crew Department of the East Indian

Railway was convicted in Howrah Division for a defalcation of Rs. 1,500 of excess fare money ?

(b) Is it true that he was an *ex-convict* before being employed in the Crew Department ?

(c) During how many days was this amount recovered by him ?

(d) Who was held responsible for slack supervision in failing to see that he regularly deposited the money and what punishment was accorded to him ?

(e) How was this money accounted for ?

Mr. A. A. L. Parsons : With your permission, Sir, I propose to reply to questions Nos. 1106, 1107, 1108 and 1109 together. They are the first intimation that the Railway Board have received of certain allegations against employees in the recently abolished crew system. I will certainly have enquiries made as to the truth of these allegations if the Honourable Member can give me an assurance that facts have come to his notice suggesting that there may be some truth in them. I should add that in all cases any action to be taken will apparently be within the competence of the Agent without reference to the Railway Board.

CONVICTION FOR CHEATING OF A CLERK IN THE CREW DEPARTMENT, EAST INDIAN RAILWAY, CALCUTTA.

†1107. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Will Government be pleased to state if it is a fact that one Kidar Nath Day was convicted by the Chief Presidency Magistrate, Calcutta, for cheating certain candidates on promise to secure appointments for them in the Crew Department ?

(b) Is it a fact that he was a clerk in the Crew Department attached to the Head Office, Calcutta ?

(c) Is it a fact that he granted pro-notes for the money thus recovered from the candidates ?

(d) When was he arrested ?

(e) When was he convicted ?

(f) When was he suspended ?

(g) When was he dismissed ?

(h) Is it a fact that the Magistrate in his judgment remarked that he had been the tool of larger fry ?

(i) Is it a fact that the Magistrate sent certain papers along with his judgment to the Agent, East Indian Railway, for information ?

(j) Will Government please lay on table a copy of those papers ?

(k) Did Government take steps to find out the larger fry ?

(l) Who were found connected therewith and what punishment was accorded ?

SALE AND DETECTION OF USED RAILWAY TICKETS AT GAYA AND PATNA.

†1108. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Will Government please state if it is a fact that a few of

†For answer to this question, see answer to question No. 1106.

the Railway employees were convicted at Gaya and Patna for re-selling used tickets on the area where the Crew system was under operation ?

(b) Is it a fact that these cases were detected by the staff not belonging to the Crew Department, i.e., Crew recruits, but by the staff deputed by the Chief Commercial Manager of the East Indian Railway ?

ALLEGATIONS AGAINST CERTAIN INSPECTORS IN THE CREW DEPARTMENT AT LUCKNOW.

†1109. *Kunwar Hajee Ismail Ali Khan (on behalf of Shaikh Fazal Haq Piracha) : (a) Will Government please state if it is true that Messrs. Sams and Homes, Inspectors of the Crew Department, Lucknow, were convicted for travelling in a ladies' compartment while on duty ?

(b) Were they discharged for this conviction ? If not, why not ?

(c) Are they still in service on the East Indian Railway ; if so, in what capacity ?

(d) Is it true that one Inspector of the Crew Department was found under the influence of liquor while on duty on Howrah station and arrested by the Railway Police ?

PREVENTION BY CREW STAFF OF PASSENGERS FROM BOARDING TRAINS.

1110. *Kunwar Hajee Ismail Ali Khan (on behalf of Shaikh Fazal Haq Piracha) : (a) Will Government be pleased to state if it was the primary function of the Crew not to allow a person to board the train without a ticket and on this fundamental principle this system was started on the East Indian Railway ?

(b) Will Government please state if, in view of the above fundamental principle, it was not the function of the Crew staff to collect excess fare but to divert the passengers to the booking offices ?

(c) Will Government please state if entry into a compartment without a ticket is an offence ?

(d) Will Government please state if any railway servant is empowered under the Indian Railway Act to prevent a person from boarding the train without a ticket ?

(e) Under what law was this power invested in the Crew ?

Mr. A. A. L. Parsons : (a) and (b). Yes.

(c) to (e). I would refer the Honourable Member to Section 68 of the Indian Railways Act, 1890 which reads as follows :—

“ No person shall, without the permission of a railway servant, enter any carriage on a railway for the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket.”

EMPLOYMENT OF CREW STAFF ON OTHER THAN THEIR LEGITIMATE DUTIES.

1111. *Kunwar Hajee Ismail Ali Khan (on behalf of Shaikh Fazal Haq Piracha) : (a) Will Government please state if it is true that Crew staff was often utilised in other than their legitimate duties such as guards, office clerks, etc., etc. ?

†For answer to this question, see answer to question No. 1106.

(b) Will Government please state if it is true that a circular was issued by the Chief Operating Superintendent, East Indian Railway, prohibiting this ; if so, when ?

Mr. A. A. L. Parsons : (a) In times of pressure, staff ordinarily employed on certain duties are utilised elsewhere where the need for their services is considered to be greater, but Government have no information of the extent to which the crew staff were utilised, if at all, for other than their ordinary duties.

(b) Government have no information.

CONTROL OF TRAVELLING TICKET EXAMINERS AND CREW STAFF ON THE EAST INDIAN RAILWAY.

1112. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Will Government please state clearly on what grounds the control of the Travelling Ticket Examiners of Oudh and Rohilkhand Railway was transferred from Operating to Accounts Department in 1909 or so ?

(b) Will Government please state if the Public Accounts Committee decided in 1929 to transfer the control of the Crew system from Operating to Accounts Department and why it was not acted up to on the East Indian Railway ?

Mr. A. A. L. Parsons : (a) No records are traceable in the office of the Railway Board bearing on the question of the control of the Travelling Ticket Examiners on the old Oudh and Rohilkhand Railway system. I am unable, therefore, to give the information required by the Honourable Member.

(b) The Public Accounts Committee in their report on the accounts for 1927-28, merely suggested that the Railway Board should consider whether it would not be more appropriate to place the crew system under the control of the Accounts Department instead of under the Traffic Department. The latter part of the question does not, therefore, arise.

CONTROL OF TRAVELLING TICKET EXAMINERS AND CREW STAFF ON THE EAST INDIAN RAILWAY.

1113. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Will Government please state why the control of the Travelling Ticket Examiners has been kept now under the Operating Department of the East Indian Railway ?

(b) Will Government please state why the ticket checking department, especially the Travelling Ticket Examiners, responsible for detection of illicit travelling are not kept under an independent officer like the Watch and Ward and Government Railway Police Departments ?

(c) On what grounds has the Accounts control not been thought proper ?

Mr. A. A. L. Parsons : (a) to (c). I would refer the Honourable Member to paragraphs 59 to 68 of the report dated 5th August, 1930 of the Committee appointed to enquire into the working of the crew system of checking and collecting tickets on the East Indian Railway, a copy of which is in the Library of the House.

TICKET CHECKING ON THE EAST INDIAN RAILWAY.

1114. ***Shaikh Fazal Haq Piracha** : (a) Will Government be pleased to state if it is true that Messrs. Moody and Ward, officers of the Crew Enquiry Committee, were asked by the Railway Board to submit definite proposals as to what system should be adopted in future to prevent persons from travelling without tickets ?

(b) Will Government please state why sanction has been given to adopt the present system of one or two Travelling Ticket Examiners per train as suggested by the said officers ? Is it purely a detective measure like the Travelling Ticket Inspection system ?

(c) Will Government please state whether after the abolition of the Crew system on the North Western Railway in 1924 a modified system of two men per train was started and in terms of the officers of the Crew Enquiry Committee "died its natural death" ? If so, why has this modified system been introduced on the East Indian Railway now which is called "Moody-Ward" or "Modified Crew system" ?

Mr. A. A. L. Parsons : (a) Yes.

(b) The present system has been adopted to check illicit travelling. Under this system, the chances of passengers without proper tickets escaping detection are so small as to make the system act as a deterrent to passengers who might otherwise entrain without proper tickets.

(c) It is presumed the Honourable Member is referring to paragraph 6 of the Moody-Ward Committee report. The scheme which is referred to as having died was the crew system of ticket checking as introduced in 1923 ; but it was found that the scheme could not be worked by two men per train. The system recently introduced on the East Indian Railway is not the crew system in force on the North Western Railway in 1924.

TICKET CHECKING ON THE EAST INDIAN RAILWAY.

1115. ***Shaikh Fazal Haq Piracha** : (a) Will Government please state whether the officers of the Crew Enquiry Committee, in paragraph 39 of their report, stated as under :—

"Comparatively low pay of the crewmen is probably the main cause of this tendency to slackness and corruption....." ?

(b) Is it not a fact that the grades of the Travelling Ticket Examiners in the Moody-Ward system are very much similar to those of crewmen and Crew-in-charges as given below :—

Moody-Ward System.			Crew System.		
Designation.	Pay maximum.	Allowance.	Designation.	Pay maximum.	Allowance.
T. T. E. grade First.	95	20	Crew-in-charge	90	20
T. T. E. grade Second.	64	15	Crewman ..	50	15

(c) Is it a fact that in the said report it has also been stated :

“ Little or no work goes on if the crew are left to themselves ”,

“ a marked difference is noticeable in the work of the crews if no officer or Inspector is in the vicinity ”.

(d) Will Government be pleased to state the number of supervising staff of the crewman, i.e., Inspectors, Assistant Inspectors and Crew-in-charges on four Crew Divisions ?

(e) How many Inspectors are there now over the same area as sanctioned by the Moody-Ward report ?

Mr. A. A. L. Parsons : (a) Yes.

(b) The Honourable Member has only quoted the maximum pay of the categories affected. The minimum pay of a Travelling Ticket Examiner is Rs. 55 and while the minimum pay of a Crewman is Rs. 35.

(c) Yes.

(d) and (e). I am calling for certain information from the Agent, East Indian Railway and will communicate with the Honourable Member on its receipts.

TICKET CHECKING ON THE EAST INDIAN RAILWAY.

1116. ***Shaikh Fasal Haq Piracha :** (a) Will Government be pleased to state if it is a fact that the officers of the Crew Enquiry Committee in paragraph 39 of their report stated :

“ A better policy in our opinion would be to decrease the numbers but improve the pay.... ”

(b) Will Government be pleased to state :

(i) the number of the Travelling Ticket Inspectors under Accounts Department on the whole of East Indian Railway ;

(ii) leave-salary of the Travelling Ticket Inspectors ;

(iii) number of Travelling Ticket Examiners in the Moody-Ward system ; and

(iv) leave-salary of the Travelling Ticket Examiners ?

(c) Will Government be pleased to state why as opposed to the suggestion, referred to in (a) above, the number of the Travelling Ticket Examiners has been increased and the salary of the Travelling Ticket Inspectors reduced ?

Mr. A. A. L. Parsons : (a) Yes.

(b) and (c). I am calling for information from the Agent, East Indian Railway and will communicate with the Honourable Member on its receipt.

TICKET CHECKING ON THE EAST INDIAN RAILWAY.

1117. ***Shaikh Fasal Haq Piracha :** (a) Will Government be pleased to state if the Agent and the Chief Operating Superintendent of the East Indian Railway, in their reports on the working of the Crew system, mentioned from year to year that the system had achieved a great success and

recommended it to be confirmed and extended all over the East Indian Railway ?

(b) Will Government be pleased to state whether the officers of the Crew Enquiry Committee reported in clear terms that the Crew system is an impracticable measure and recommended that it should be abolished ?

(c) Will Government be pleased to state if it is a fact that the Agent and the Chief Operating Superintendent both agreed with the above opinion of the officers of the Crew Enquiry Committee ?

(d) If the reply to part (c) be in the negative, will Government please state what opinion was expressed by the said officers on the Moody-Ward report and whether it has been sanctioned in accordance with or against their will ?

(e) Is it a fact that the Crew system was totally condemned by the officers of the Crew Enquiry Committee and has since been abolished ? If so, will Government be pleased to state why no correct opinion was submitted by the Agent and the Chief Operating Superintendent earlier on the working of this system ?

Mr. A. A. L. Parsons : (a) A recommendation for the confirmation and extension of the crew system was made by the East Indian Railway Administration in March, 1928, on such information as was available at the time. In January, 1930, however, when more experience had been gained of the crew system, the East Indian Railway Administration reported that they were not satisfied with it.

(b) Yes.

(c) and (d). The East Indian Railway Administration did not express an opinion on the Committee's report, beyond agreeing with the view that the crew system should be abolished and the arrangement recommended by the Moody-Ward Committee, adopted.

(e) A reply to the first part has been given in my answer to (b) and in view of my reply to (a) the second part does not arise.

TICKET CHECKING ON THE EAST INDIAN RAILWAY.

1118. ***Shaikh Fasal Haq Piracha :** (a) Will Government be pleased to state the total sum spent on the Crew system of the East Indian Railway from 1st August, 1926 to 31st May, 1931 (on all items separately under each head) ?

(b) Will Government be pleased to state what is the annual expenditure on the present Moody-Ward system, East Indian Railway, under the following heads :—pay, allowance and uniform of the staff ?

Mr. A. A. L. Parsons : (a) Government regret they cannot undertake to collect the information required as it would entail a disproportionate expenditure of time and labour.

(b) The information available is given in paragraph 56 of the Moody-Ward Report a copy of which is in the Library of the House.

TICKET CHECKING ON THE EAST INDIAN RAILWAY.

1119. ***Shaikh Fasal Haq Piracha :** Will Government be pleased to state if it is a fact that the expenditure on the Travelling Ticket

Inspectors was less than on the Travelling Ticket Examiners under the Moody-Ward system in the East Indian Railway? If so, will Government please state why this expensive measure has been undertaken under the present state of economic depression?

Mr. A. A. L. Parsons : I presume the Honourable Member's reference to the expenditure on Travelling Ticket Inspectors is in connection with the arrangement in force prior to the introduction of the crew system. The arrangement now adopted has been considered necessary to safeguard revenue, as it is believed that it will be more effective in detecting passengers travelling without a proper pass or ticket than the arrangement in force prior to the introduction of the crew system.

TICKET CHECKING ON THE EAST INDIAN RAILWAY.

1120. ***Shaikh Fazal Haq Piracha :** (a) Will Government be pleased to state if the Moody-Ward system on the East Indian Railway is a temporary measure or a permanent one?

(b) If temporary, why have the permanent staff been discharged and the salaries of the remaining lot curtailed?

(c) If a permanent measure then why have the temporary men not been confirmed?

(d) If this system is a temporary measure, will Government please state why a permanent measure has been replaced by a temporary one?

(e) If it is a permanent one, will Government please state why it has been confirmed without trial?

Mr. A. A. L. Parsons : (a) to (e). I have called for certain information from the Agent, East Indian Railway and will communicate with the Honourable Member on its receipt.

ALLOWANCES OF TRAVELLING TICKET EXAMINERS ON THE EAST INDIAN RAILWAY.

1121. ***Shaikh Fazal Haq Piracha :** (a) Will Government be pleased to state why no mileage allowance is given to the Travelling Ticket Examiners of the East Indian Railway when they come under the category of the running staff like the guards and the drivers?

(b) Why are they paid an allowance of only annas 10 and 8 per day for long hours of journey and halt at out-stations? Is it a fact that for such journeys and halts the other running staff would earn several times more than the Travelling Ticket Examiners?

Mr. A. A. L. Parsons : (a) and (b). Travelling Ticket Examiners are treated differently from guards and drivers on account of the difference in the character of the duties.

ALLOWANCES OF CREW STAFF ON THE EAST INDIAN RAILWAY.

1122. ***Shaikh Fazal Haq Piracha :** (a) Will Government be pleased to state if it is a fact that the following permanent travelling allowance was paid to the Crew staff of the East Indian Railway?—

Crew-in-charge	Rs. 20 per month.
Crewman	Rs. 15 per month.

(b) Will Government please state if it is a fact that under the rules a permanent travelling allowance is admissible all the year round whether a subordinate leaves his headquarters or not ?

(c) Will Government please state if this permanent travelling allowance is admissible on casual leave or leave on average pay ?

(d) Will Government please state if it is true that the following three different ways were adopted by the East Indian Railway in respect of the payment of the said allowance to the crew staff :

Howrah Division.—No allowance was given when a man was on station duty and did not leave his headquarters even for a day and was not paid on casual leave or on leave on average pay.

Dinapore Division.—Allowance was paid whether a man left his headquarters or not for any period and also during casual leave.

Lucknow Division.—Allowance was given on station duty provided a man left his headquarters once a week and was not paid during any kind of leave ?

(e) If answers to part (d) be in the affirmative, will Government please state :

(i) why different methods existed on one Railway ;

(ii) which of them is the correct method ; and

(iii) who is responsible for adopting the wrong method ?

(f) Do Government propose to draw up an arrear list of payment for the staff affected by the wrong method of payment ? Was it carried on for five years on either of the three Divisions ?

Mr. A. A. L. Parsons : With your permission, Sir, I propose to reply to questions, Nos. 1122, 1123, 1124, 1125, 1126, 1127, 1130, 1131, 1132, 1133, 1134 and 1135 together.

I am calling for certain information from the Agent, East Indian Railway and will communicate with the Honourable Member on its receipt.

ALLOWANCES OF CREW STAFF ON THE EAST INDIAN RAILWAY.

†1123. ***Shaikh Fazal Haq Piracha :** (a) Will Government be pleased to state why no consolidated allowance was given to the ticket collectors who were designated as crewmen and Crew-in-charges in the crew system on the East Indian Railway ?

(b) Will Government please state if it is true that under the rules they were entitled to this consolidated allowance ?

(c) Do Government propose to draw up an arrear pay sheet for those ticket collectors who worked in the crew system and were not paid this allowance ?

ALLOWANCES OF TRAVELLING TICKET INSPECTORS ON THE EAST INDIAN RAILWAY.

†1124. ***Shaikh Fazal Haq Piracha :** (a) Will Government be pleased to state if it is correct to exclude all kinds of leave, rest days, holidays in calculating average mileage ?

†For answer to this question, see answer to question No. 1122.

(b) Will Government please quote the State Railway rules with illustrations on the subject ?

(c) Is it true that wrong method of calculating average mileage of the Travelling Ticket Inspectors was adopted by the Operating Department of the East Indian Railway, which resulted in a regular monthly loss to them ?

(d) Will Government please state if it is also correct that the Travelling Ticket Inspectors appealed against this and after about 20 months correspondence the average mileage was re-calculated and majority of the Travelling Ticket Inspectors were paid the arrears ?

(e) Will Government please state the cause of this delay ?

(f) Will Government please state why, in re-calculating the average mileage, period of recorded leave was only excluded and rest days, holidays, and casual leave were not excluded ?

(g) Is it correct that during casual leave, rest days, holidays no mileage was drawn by Travelling Ticket Inspectors whereas during recorded leave they were paid average mileage to the extent of 75 per cent. of their pay ? If so, why were those days not excluded during which they did not draw any mileage ?

(h) Will Government please state whether in the case of guards periods of non-working days are excluded or not ?

(i) Do Government propose to compensate the loss sustained by the Travelling Ticket Inspectors while in the crew as a result of this wrong calculation of average mileage inasmuch as the period of all non-working days should have been excluded, which was not done ?

TICKET CHECKING ON THE EAST INDIAN RAILWAY.

†1125. *Shaikh Fazel Haq Piracha : (a) Will Government be pleased to state whether as a consequence of the abolition of the crew system, which was a temporary measure, the pay of the Travelling Ticket Inspectors has been reduced, mileage allowance abolished and future increments stopped ?

(b) Will Government please state the total number of Travelling Ticket Inspectors utilised in the Moody-Ward scheme and how many of them have suffered a loss in their leave salary ?

(c) Has the cause of this heavy reduction in their salary been assigned to the abolition of their post ? If so, will Government please state in what respect the post of the Travelling Ticket Inspectors has been abolished ?

(d) Will Government please state whether the functions of the Travelling Ticket Inspectors are the same as that of the Travelling Ticket Examiners of the Moody-Ward system, and if so, how the post of the Travelling Ticket Inspectors is said to have been abolished ?

(e) Will Government please state if the Travelling Ticket Inspectors and Travelling Ticket Examiners are in general terms described as Travelling Ticket Checkers ?

†For answer to this question, see answer to question No. 1122.

(f) If there is any difference in their function, will Government please lay on the table a comparative statement showing a comparison and contrast of the duties of a Travelling Ticket Inspector and a Travelling Ticket Examiner ?

(g) Is it a fact that train ticket checking staff were designated as Travelling Ticket Checkers, then Travelling Ticket Examiners and after amalgamation of the East Indian Railway and the Oudh and Rohilkhand Railway, they were designated as Travelling Ticket Inspectors ?

(h) Will Government please state if the transfer of Travelling Ticket Inspectors' control and change of designation from Travelling Ticket Inspectors to Travelling Ticket Examiners is not a new thing but an old one ?

(i) Will Government please state why Ticket Collectors—preventive—and Travelling Ticket Examiners—detective bodies—have been placed under one head ? Is it not a fact that long ago it was thought necessary to keep them under different departments ?

(j) Will Government please state why the Watch and Ward Department and Government Railway Police are independent of the Operating control ?

PROMOTION OF TRAVELLING TICKET INSPECTORS ON THE EAST INDIAN RAILWAY.

† 1126. *Shaikh Fasal Haq Piracha : (a) Will Government please state whether, when the Travelling Ticket Inspectors of Dinapore Division of the East Indian Railway appealed against the appointment of outsiders over them on high pay, the following reply was given to them by the Chief Operating Superintendent in his letter No. 40|O.D.|Crew of 7th August, 1928 :—

“ If encouraged by considerate procedure, they are going to make this a lever for getting higher appointments, for which they are not fitted. I am afraid it may lead to a revision of the decision arrived at ”.

But, when Moulvi Mohd. Yakub asked in the Legislative Assembly on the 16th March, 1929 (Question 1110) :—

“ Will Government please state on what basis the opinion was formed that the old Travelling Ticket Inspectors were not qualified for higher posts in the Crew Department ? ”

the following reply was given :—“ No such opinion was formed ”

(b) Will Government please state now as to which of them is the correct answer ?

DISCHARGE OF TRAVELLING TICKET INSPECTORS ON THE ABOLITION OF THE CREW SYSTEM ON THE EAST INDIAN RAILWAY.

†1127. *Shaikh Fasal Haq Piracha : (a) Will Government be pleased to state why and how many Travelling Ticket Inspectors have been discharged due to the abolition of the crew system on the East Indian Railway ?

†For answer to this question, see answer to question No. 1122.

(b) Will Government please state their names, length of service, and cause of their discharge from service ?

(c) How many of the recruits of the crew system belonging to the category of Inspectors and temporary in service were discharged from service as a result of the abolition of the crew system ?

(d) Will Government please state whether it is not a fact that permanent men were discharged and temporary men retained ? If so, why ?

QUALIFICATIONS AND SERVICE OF CERTAIN EMPLOYEES AND THEIR PAY AFTER ABOLITION OF THE CREW SYSTEM ON THE EAST INDIAN RAILWAY.

1128. ***Shaikh Fasal Haq Piracha** : Will Government please state the departmental qualifications and the length of service of the following staff, and whether temporary or permanent, and the pay offered to them after the abolition of their posts in the crew system on the East Indian Railway.---

Messrs.

- (i) A. Latif, Chief Inspector, Howrah.
- (ii) A. H. Kuraishi, Senior Inspector, Howrah.
- (iii) A. Ghaffar, Senior Inspector, Howrah.
- (iv) G. T. Shivi, Junior Inspector, Howrah.
- (v) C. E. Chambers, Assistant Head Ticket Collector, Howrah.
- (vi) Dufold, Assistant Head Ticket Collector, Howrah.
- (vii) Day, Assistant Head Ticket Collector, Howrah.
- (viii) Kitchlu, Head Ticket Collector, Allahabad.
- (ix) J. W. Parratton, Head Ticket Collector, Moradabad Division.
- (x) K. M. Asghar, Head Ticket Collector, Moradabad Division ?

Mr. A. A. L. Parsons : With your permission, Sir, I propose to reply to questions Nos. 1128 and 1129 together.

The Railway Board are not in possession of the information with regard to the individuals mentioned in these questions for which the Honourable Member asks and are not prepared to call for it from the Railway Administration. If any of them feels aggrieved at any action which may have been taken, he has a right of appeal.

SERVICE, QUALIFICATIONS, LEAVE-SALARY, ETC., OF CERTAIN DIVISIONAL INSPECTORS AND TRAVELLING TICKET INSPECTORS ON THE EAST INDIAN RAILWAY.

†1129. ***Shaikh Fasal Haq Piracha** : (a) Will Government be pleased to state the length of service, departmental qualifications, leave-salary (on which Income-tax and Provident Fund were deducted and which was paid during leave) of the following Divisional Inspectors of Travelling

†For answer to this question, see answer to question No. 1128.

Ticket Inspectors and the Travelling Ticket Inspectors on the East Indian Railway ?

Messrs.

1. J. S. Roberts, Divisional Inspector of Travelling Ticket Inspectors.
2. J. Marshall, Divisional Inspector of Travelling Ticket Inspectors.
3. Bhagat Ram, Divisional Inspector of Travelling Ticket Inspectors.
4. Judge Ally, Divisional Inspector of Travelling Ticket Inspectors.
5. C. Benjamin, Travelling Ticket Inspector.
6. T. V. Liddle, Travelling Ticket Inspector.
7. Springett, Travelling Ticket Inspector.
8. Raja Bahadur, Travelling Ticket Inspector.
9. Shakir Ali, Travelling Ticket Inspector.
10. Syed Mahmud, Travelling Ticket Inspector.
11. S. N. Chakraverti, Travelling Ticket Inspector.
12. G. D. Dass, Travelling Ticket Inspector.
13. Shaikh Mahmud Hussain, Travelling Ticket Inspector.
14. Farrukh Hussain, Travelling Ticket Inspector.

(b) Will Government be pleased to state what pay has been offered to them now in the Moody-Ward system ?

PAY AND ALLOWANCES OF TRAVELLING TICKET INSPECTORS ON THE EAST INDIAN RAILWAY.

†1130. ***Shaikh Fasal Haq Piracha** : Will Government be pleased to state whether rules regarding the pay and allowances of the Travelling Ticket Inspectors in the Crew system on the East Indian Railway framed in 1927 gave them the choice to elect to retain the scale of their Travelling Ticket Inspectors' post *plus* average mileage or accept the Crew scales ? If so, why were their claims not considered on their pay *plus* average mileage ?

PROMOTION OF TRAVELLING TICKET INSPECTORS, ETC., ON THE EAST INDIAN RAILWAY.

†1131. ***Shaikh Fasal Haq Piracha** : (a) Will Government be pleased to state if it is true that seniority has been based on pay only in allotting various posts in the Moody-Ward scheme on the East Indian Railway ?

(b) Is it a fact that the Agent O. D. in his letter No. 40|Od.| Crew, dated 7th August, 1928 said " It is unwise to base selection purely on pay " ?

†For answer to this question, see answer to question No. 1122.

EXAMINATIONS FOR TRAVELLING TICKET INSPECTORS ON THE EAST INDIAN RAILWAY.

†1132. ***Shaikh Fazal Haq Piracha** : (a) Will Government be pleased to state why the Travelling Ticket Inspectors in the Crew system on the East Indian Railway were compelled to appear at Crew Examinations ?

(b) Is it a fact that the Instructor Crew Training School, Fyzabad, is one of the old Travelling Ticket Inspectors possessing the same qualifications as the other Travelling Ticket Inspectors ?

(c) Will Government please quote the syllabus of the Travelling Ticket Inspectors and Crew Inspectors' Examination ?

UNIFORMS SUPPLIED TO CREW STAFF AND TRAVELLING TICKET EXAMINERS ON THE EAST INDIAN RAILWAY.

†1133. ***Shaikh Fazal Haq Piracha** : (a) Will Government be pleased to state how much blue colour summer uniform cloth was purchased for the Crew staff on the East Indian Railway ?

(b) When was it purchased and what was the amount spent ?

(c) If a large stock is still lying, why so much surplus cloth was purchased when the Crew system was temporary ?

(d) Are Government aware of the fact that the use of the cloth caused numerous skin diseases to its wearers ?

(e) Is it a fact that even the cloth of chaprasis' uniforms is higher in price than the one which was supplied to the Crew staff ?

(f) Is it true that the same stuff is going to be supplied to the Travelling Ticket Examiners ?

(g) Will Government please state if the Travelling Ticket Examiners are going to be supplied with knickers and half sleeve shirts ? If so, will Government please state why the Travelling Ticket Examiners are going to be supplied now ? Were the Travelling Ticket Inspectors strictly prohibited the use of knickers ?

(h) Why do not Government supply them the same uniform which was supplied to the Travelling Ticket Inspectors and which is supplied to the other railway officials ?

(i) Will Government please state why no waterproof coats are supplied to the Travelling Ticket Examiners like the other running staff ?

NUMBER OF TICKET COLLECTORS AT CERTAIN STATIONS AND CHECKING OF TICKETS AT ROAD-SIDE STATIONS.

†1134. ***Shaikh Fazal Haq Piracha** : (a) Will Government be pleased to state if it is a fact that the officers of the Crew Enquiry Committee stated in paragraph 53 of their report :

“ By common consent the number of the ticket collectors in the old days was inadequate ” ?

(b) Will Government please state the strength of ticket collectors at the following stations before and after the introduction of the Moody-Ward system :—

Howrah, Asansol, Gaya, Dinapur, Moghalsarai, Allahabad, Cawnpore, Tundla, Aligarh, Benares Cantonment, Lucknow, Bareilly, Moradabad, Hardwar and Dehradun ?

(c) Are Government aware that at road-side stations there is one Assistant Station Master who on arrival of the train has to perform various important duties and the passengers have either to stay in order to deliver their tickets to the Assistant Station Master when he is free or they are collected by illiterate menial staff or the passengers clear off without handing them over, as there is none to take the tickets immediately on arrival of the train ?

(d) Will Government please state the number of such stations on the East Indian Railway and those having ticket collectors ?

(e) Will Government please state how many *per cent.* stations are there on the East Indian Railway which have got fencings to keep back trespassers ?

(f) Why are no arrangements made to protect the station premises from unauthorised entry ?

(g) Is it a fact that tickets are not checked at the checking stations now-a-days as it was done before the introduction of the Moody-Ward system ? If not, why not ?

(h) If this work is proposed to be checked by the Travelling Ticket Examiners booked with the train, will Government be pleased to state if they have considered whether it is possible for one Travelling Ticket Examiner to finish checking in the limited stoppage at the station ?

TICKET COLLECTORS DISCHARGED AND REDUCED ON THE EAST INDIAN RAILWAY.

†1135. ***Shaikh Fazal Haq Piracha** : (a) Will Government be pleased to state why and how many ticket collectors of permanent cadre were discharged on the introduction of the Moody-Ward system on the East Indian Railway ?

(b) Will Government be pleased to state whether any and if so, how many permanent ticket collectors have been reduced to Rs. 95 from Rs. 120, their length of service, and their term of service as Head Ticket Collectors ?

(c) Will Government please state the length of service of those posted in their place and the pay offered to them ?

(d) Will Government be pleased to state why this grave injustice has been done to these men ?

APPOINTMENT OF ACCOUNTS CREW INSPECTORS ON THE EAST INDIAN RAILWAY.

1136. ***Shaikh Fazal Haq Piracha** : (a) Will Government be pleased to state whether an establishment of Accounts Inspector, Crews, was maintained on the East Indian Railway to have a super-check over Crew working from the Accounts side ?

†For answer to this question, see answer to question No. 1122.

(b) Will Government please state the grades of these Inspectors ?

(c) Will Government please state the names of these men and the sources from which these men were taken and their length of service on the Railway before being taken as Accounts Crew Inspector ?

(d) Will Government please state their railway qualifications and whether they were temporary or permanent before appointment as Accounts Inspector ?

(e) Will Government please state why a few Crewmen on Rs. 35 pay were taken as Inspectors of Accounts Crew and one of them was a discharged Travelling Ticket Inspector ?

(f) Will Government please state why Travelling Ticket Inspectors' claims were overlooked who were Accounts hands ?

(g) Will Government please state if the Travelling Ticket Inspectors sent appeals on this subject to the Chief Accounts Officer ? If so, why were their claims overlooked even then ?

(h) Will Government please state whether with the abolition of the Crew system their post was automatically abolished ?

(i) How many of them were discharged ?

(j) Will Government please state why most of them have been retained for Accounts Super Check over Operating Travelling Ticket Examiners ?

Mr. A. A. L. Parsons : With your permission, Sir, I propose to answer to this and the following question together.

I regret I cannot undertake to make the very laborious enquiries which a reply to the Honourable Member's questions would entail.

ACCOUNTS CREW INSPECTORS ON THE EAST INDIAN RAILWAY.

†1137. ***Shaikh Fasal Haq Piracha :** (a) Will Government please state if all the Accounts Crew Inspectors on the East Indian Railway were served with a notice regarding the termination of their service from 31st May, 1931 ?

(b) Is it a fact that afterwards it was withdrawn ?

(c) Will Government please state whether it is true that they did no work in June 1931 because sanction for their post came in July, 1931 ?

(d) Will Government please state if their service will be counted as continuous and whether they have been paid for June, 1931 ?

(e) Will Government please state who from amongst them are related to the officers of the Accounts Department and other Railway officials ?

(f) Will Government please state why Travelling Ticket Inspectors' claims have again been overlooked for this post as well ?

(g) Is it a fact that practically all of the Accounts Crew Inspectors are Bengalis with the exceptions of only a few ? If so, will Government please state why minorities' claims have been overlooked ?

(h) Will Government please state :—

(i) the number of such posts, and

(ii) the number of Hindus, Muhammadans, Sikhs and Christians ?

†For answer to this question, see answer to question No. 1136.

TICKET CHECKING ON THE EAST INDIAN RAILWAY.

1138. ***Shaikh Fasal Haq Piracha** : (a) Will Government please state whether Inspectors of various departments of the East Indian Railway are authorised to check tickets ? If so, why ?

(b) Why have they not been asked to qualify first in the checking duties ?

(c) Are they allowed to check in private dress instead of in uniform ? If so, why ?

Mr. A. A. L. Parsons : With your permission, Sir, I propose to reply to this and question No. 1139 together.

I am asking the Agent, East Indian Railway for the information required by the Honourable Member and will communicate with him when it is received.

TICKET CHECKING ON THE EAST INDIAN RAILWAY.

†1139. ***Shaikh Fasal Haq Piracha** : (a) Will Government please state if it is a fact that every railway employee has been authorised to check tickets, even illiterate menial staff, on the East Indian Railway ?

(b) If so, have Government considered that it will give a chance to bogus persons to impersonate as Travelling Ticket Examiners ?

(c) Are Government aware that it will be harassing to the public to have so many men demanding tickets every now and then ?

(d) Is it a fact that a regular staff has been maintained exclusively for checking purpose, and if so, what is the necessity of having these other men for checking purposes ?

ADMISSION OF RAILWAY MAIL SERVICE CLERKS TO THE ACCOUNTANTS' EXAMINATION.

1140. ***Maulvi Sayyid Murtuza Saheb Bahadur** : (a) Is it a fact that the clerks in the Railway Mail Service in the grade of Rs. 35 to 135 are not allowed to appear at the Accountants' examination, whereas the clerks in the same grade employed in the Postal Department other than the Railway Mail Service are allowed to appear at the said examination ?

(b) Do Government propose to allow the clerks in the grade of Rs. 35 to 135 employed in the Railway Mail Service to appear at the Accountants' examination ? If so, when ? If not, why not ?

Sir Hubert Sams : (a) The examination referred to is the Post Office Accountants' examination, which, as its name indicates, is with reference to the accounts of post offices, which are not the same as those of the Railway Mail Service. Accordingly, only Post Office clerks are eligible to appear for it.

(b) No, for the reason stated in reply to part (a). The remaining parts do not arise.

†For answer to this question, see answer to question No. 1138.

CREATION OF AN ADDITIONAL SELECTION GRADE POST IN EACH RAILWAY MAIL SERVICE DIVISION.

1141. *Maulvi Sayyid Murtuza Saheb Bahadur : (a) Is it a fact that there is a selection post in the grade of Rs. 160 to 250 in each Division of the Railway Mail Service ?

(b) Is it a fact that in some Divisions the said post in the selection grade is held by Head Clerks in the offices of the Railway Mail Service Superintendents, while in other Divisions it is held by the Accountants of the head record offices ?

(c) Are Government prepared to consider the question of creating one more selection grade post in each Division of the Railway Mail Service and in each Railway Mail Service Division to fix one such selected post for the Head Clerk in the Railway Mail Service, Superintendent's office and another such post for the Accountant of the head record office ? If so, when ? If not, why not ?

Sir Hubert Sams : (a) and (b). The fact is not as stated by the Honourable Member. In each Railway Mail Service Division there are a number of selection posts in the grade of Rs. 160—250, the number varying according to the importance of the Division. To the office of each Superintendent of a Railway Mail Service Division is attached a post on Rs. 250—350 and a post on Rs. 160—250. The former is always held by the Head Record Clerk, who forms a part of the Superintendent's office establishment, and the other may be held either by the Head Clerk or by the Accountant of the office according to requirements.

(c) No, in the circumstances stated in the reply to parts (a) and (b) and in the present financial circumstances there can be no question of the creation of further posts.

ADMISSION OF RAILWAY MAIL SERVICE CLERKS TO THE SELECTION GRADE EXAMINATION.

1142. *Maulvi Sayyid Murtuza Saheb Bahadur : Is it a fact that " junior " clerks in the grade of Rs. 35 to 135 as well as " senior " clerks in the same grade in the Railway Mail Service were admitted to the selection grade examination of 1930 in all the Railway Mail Service Divisions except the " J " Division ? If so, why were not the " junior " clerks from the " J " Division admitted to the said examination ?

Sir Hubert Sams : Government have not the information. The matter of selection was entirely within the competence of the Postmaster General.

PAY AND ALLOWANCES OF STAFF OF THE GOVERNMENT OF INDIA SECRETARIAT AND ATTACHED OFFICES.

1143. *Mr. B. N. Misra : (a) Is it a fact that there is a difference in the pay and allowances of the staff of the Secretariat and attached and subordinate offices ?

(b) If so, will Government please state the reason for such difference ?

The Honourable Sir James Crear : (a) Yes.

(b) The reasons are stated in my reply to part (d) of the Honourable Member's question No. 938, on 24th September, 1931.

CURRENCY WITHDRAWN FROM CIRCULATION AND THE GOVERNMENT OF INDIA'S NEW LOAN.

1144. ***Sirdar Sohan Singh :** (a) Will Government be so good as to place a statement on the table showing the amounts that have been withdrawn from circulation within the last five years ?

(b) Will Government be pleased to say when the new loan is going to be closed and if they have considered the question as to whether the new loan is likely to operate against agriculturists and depress credit and prices ?

The Honourable Sir George Schuster : (a) The attention of the Honourable Member is invited to the statement on pages 20 and 21 of the Report of the Controller of the Currency for 1930-31.

(b) Government have not decided yet when the new loan will be closed. As stated in the notification, it will remain open until further notice. Government do not consider that the loan is likely to operate against agriculturists or depress credit and prices. On the other hand it offers an attractive opportunity to small investors which the returns, of subscriptions indicate is being considerably appreciated.

RECRUITMENT OF GOANESE IN DEPARTMENTS IN THE EAST AFRICAN COLONIES.

1145. ***Mr. Gaya Prasad Singh :** (a) Are Government aware that about 80 per cent. of the non-European staff in the various Departments of the East African Colonies consists of non-British subjects, i.e., Goanese ?

(b) Are Government aware that due to trade depression heavy retrenchment is in progress in those colonies and many Indians with several years services have been turned out ?

(c) If the answers to parts (a) and (b) be in the affirmative, do Government propose to take necessary steps for replacing the non-British staff by British subjects and stop further recruitment of Goanese ?

Mr. Ram Chandra : (a) and (b). Government have no information.

(c) Does not arise.

EMPLOYMENT OF COOLIES ON THE GREAT INDIAN PENINSULA RAILWAY.

1146. ***Rao Bahadur B. L. Patil :** (a) Is it a fact that all the *hamals* (coolies) working in the Great Indian Peninsula Railway stations, and particularly in the Victoria Terminus, Bombay, were dismissed and a contract has been given to supply *hamals* ?

(b) Are Government aware that the contractor is making huge profits and is it a fact that the *hamals* have made representations to the railway authorities and to Government complaining against the methods of the contractor ?

(c) Is it a fact that the *hamals* are mainly from the Konkan Districts that have recently suffered from heavy floods ?

(d) Has any action been taken to restore the *status quo* ?

Mr. A. A. L. Parsons : The Railway Board have received no representations on this matter which is one of those left to Agents of railways. I am sending a copy of the Honourable Member's question to the Agent, Great Indian Peninsula Railway.

NON-INCLUSION OF KANARESE IN THE LANGUAGES PRESCRIBED FOR THE INDIAN CIVIL SERVICE EXAMINATION.

1147. ***Rao Bahadur B. L. Patil :** (a) Is it a fact that *Kanarese* is not included in the Indian languages prescribed for the Indian Civil Service examination that is now held in India and also for the probationers' course in England as notified in the *Gazette of India*, dated 2nd June, 1931, in Notification No. 162 of 1931 ?

(b) If not, what are the reasons for this discrimination ?

(c) Are Government aware that *Kanarese* is one of the languages prescribed for the various examinations in Arts for higher degrees in the Universities of Bombay, Madras, Calcutta and Mysore ?

The Honourable Sir James Orerar : (a) *Kanarese* is one of the languages that may be offered in the compulsory section of the examination for the Indian Civil Service in India. It is not one of the languages prescribed for the probationers' course in England.

(b) Only the most widely spoken vernacular languages of the province to which a probationer is allotted are prescribed for the probationary course.

(c) Yes.

UNSTARRED QUESTIONS AND ANSWERS.

LACK OF MEDICAL FACILITIES FOR PRESS EMPLOYEES IN NEW DELHI.

127. **Mr. S. C. Mitra :** (a) Will Government be pleased to state if it is a fact that no medical facilities have been provided for the employees of the Government of India Press, Delhi, in their new quarters at Barakhamba ?

(b) Is it a fact that there is no dispensary nearby and are Government aware that the Press workers and their families consisting of about 2,000 persons are suffering great privations in this malaria season ?

(c) Is it a fact that nearly 75 per cent. of the Press population is at present down with a severe type of malaria and dysentery is prevalent in an epidemic form and no medical aid from Government is available for them ?

(d) Is it a fact that the Combined Hospital is too far from the Press quarters and the employees cannot take advantage of it ?

Mr. J. A. Shildy : I propose to deal with questions Nos. 127 to 130 together. The majority of the press employees, like other Government servants on a pay of Rs. 15 to 149 per mensem, can, in case of illness, call in a Sub-Assistant Surgeon at their house free of charge. A first aid medical chest is also maintained in the premises of the Press for emergencies. The Government of India consider these facilities to be adequate and as the Combined Hospital in New Delhi is not at any great distance from

the site of the press, they do not consider it necessary to provide a separate dispensary exclusively for their use. No separate dispensary was also provided for the press employees at old Delhi, because the Balak Ram Hospital happened to be near at hand and was utilized by them.

The Chief Engineer has been asked to submit through the Chief Commissioner, Delhi, his proposals for constructing a primary school for the children of the press employees. These proposals will be considered by the Government of India on their receipt.

LACK OF MEDICAL FACILITIES FOR PRESS EMPLOYEES IN NEW DELHI.

†128. **Mr. S. C. Mitra :** (a) Is it a fact that medical facilities enjoyed by the Government of India Press employees for the last 19 years in old Delhi have been withdrawn with their transfer to New Delhi ?

(b) Are Government aware that with the transfer of the Government of India Press population from Timarpur (Old Delhi) to New Delhi there is no necessity for two medical officers in the Balak Ram Hospital ? If so, why one doctor cannot be provided to staff a dispensary for the Press employees ? Is it a fact that the Manager of the Press has reserved a " B " type quarter to be used as a building for the dispensary ?

LACK OF EDUCATIONAL FACILITIES FOR THE CHILDREN OF PRESS EMPLOYEES IN NEW DELHI.

†129. **Mr. S. C. Mitra :** (a) Will Government be pleased to state if it is a fact that there were two Primary Schools for boys and girls at Timarpur for the education of the children of the Government of India Press employees at Delhi ?

(b) Is it a fact that no schools have been opened in New Delhi for the children of the Press employees since the move of the Press from Old Delhi to New Delhi last month ? If so, is it the intention of Government to deprive the children of the Press workers of all the previous facilities for education ?

LACK OF EDUCATIONAL AND MEDICAL FACILITIES FOR PRESS EMPLOYEES IN NEW DELHI.

†130. **Mr. S. C. Mitra :** Will Government be pleased to state if it is a fact that the Government of India Press workers at Delhi have been deprived of all facilities for education and medical attendance and that the Royal Commission on Labour recommended better facilities for the education and medical attendance of industrial workers ?

QUARTERS ALLOTTED TO PRESS EMPLOYEES IN NEW DELHI.

131. **Mr. S. C. Mitra :** (a) Will Government be pleased to state if it is a fact that the Manager, Government of India Press, Delhi, has allotted " F " and " Duffry " type quarters to the clerks of his office ?

(b) Is it a fact that in the Government of India subordinate offices and Public Works Department quarters lower than " E " type are not allotted to clerks ? If so, why inferior type of quarters have been given to Press clerks ?

†For answer to this question, see answer to question No. 127.

(c) Are Government aware that great discontent is prevailing amongst the Press clerks owing to the treatment meted out to them ?

(d) Is it a fact that according to the allotment rules made by the Manager himself junior clerks were entitled to " E " type quarters ? If so, why is the Manager not giving effect to the rules framed by him and approved by the Controller of Printing and Stationery ?

(e) Is it a fact that Press clerks have brought their grievances to the notice of the higher authorities, but no action has so far been taken to redress their grievances ?

Mr. J. A. Shikidy : (a) to (e). Residential quarters attached to the Government of India Press at New Delhi have been constructed with due regard to the pay and status of the employees of the Press including clerks. Rules regulating the classification and allotment of these quarters are still under the consideration of the Government of India and pending their issue allotments have been made on a provisional basis.

APPOINTMENT OF A LAND AND DEVELOPMENT OFFICER IN THE PUBLIC WORKS DEPARTMENT, NEW DELHI.

132. **Mr. Gays Prasad Singh :** (a) Is it a fact that a new officer has been appointed as Land and Development Officer in the New Delhi P. W. D. this year ?

(b) Is it a fact that before this officer was appointed, the duties of Land and Development Officer and P. A. to the Chief Engineer were carried on by one officer ?

(c) Is it a fact that the officer is still on probation ?

(d) Is it a fact that a considerable number of poorly paid clerks of the Delhi P. W. D. have been retrenched and turned out of service recently, whereas this highly paid appointment of Land and Development Officer has been created ? What is his pay ?

(e) What is the justification for the appointment ?

(f) Is it a fact that the works in New Delhi P. W. D. are nearing completion ?

(g) In view of the acute financial stringency, do Government propose to dispense with the services of the Land and Development Officer ? If not, why not ?

Mr. Ram Chandra : (a) A whole-time Land and Development Officer for New Delhi, who is directly under the control of the Chief Commissioner was appointed in October, 1930.

(b) The Personal Assistant to the Chief Engineer performed the duties of Land and Development Officer in addition to his own from the 1st April, 1928 to the 17th March, 1930.

(c) Yes.

(d) Notices for termination of service have been given to a certain number of temporary staff—gazetted and non-gazetted, and on various rates of pay—in the Central Public Works Department. The Land and Development Officer draws a pay of Rs. 800 per mensem plus a motor car allowance of Rs. 100 a month.

(e) The Honourable Member's attention is invited to paragraph 39 of the Standing Finance Committee's proceedings, dated the 22nd January, 1929, a copy of which is available in the Library of the House.

(f) Yes.

(g) The question will be considered in connection with the recommendations of the Retrenchment Advisory Committee.

DHOBI GHATS PROVIDED FOR PRESS EMPLOYEES IN NEW DELHI.

133. **Mr. S. C. Mitra :** (a) Will Government be pleased to state if it is a fact that for every 25 quarters one big *dhobi ghat* has been constructed in the Press quarters recently built at New Delhi for the Press staff ?

(b) Is it a fact that nearly 12 such *dhobi ghats* have been built for a staff of about 270 employees living in the quarters ? If so, what was the necessity of building so many *dhobi ghats* and what is the amount of expenditure incurred in constructing and fitting water pipes in those *dhobi ghats* ?

(c) Who will pay the cost of filtered water supply in those *ghats* ?

Mr. J. A. Shillidy : (a) and (b). No. There are in all only six *dhobi ghats* to serve over 400 employees. Together with their families, there are estimated to be 1,500 persons on the Press estate.

(c) Bills for the water consumed will be sent to the New Delhi Municipal Committee for payment. It is understood that they make certain recoveries from the *dhobies* in the form of a licence fee.

QUARTERS PROVIDED FOR PRESS EMPLOYEES IN NEW DELHI.

134. **Mr. S. C. Mitra :** (a) Is it a fact that in New Delhi one " B " type and three " C " type standard size quarters were sanctioned by the Government of India for the high-paid Reading Branch and supervising and clerical staff of the Press employees ? If so, is it a fact that the Engineer-in-Charge of the project has built an inferior design of quarters, triangular in form, in place of the standard type ? If so, what is the authority for that ?

(b) Have Government compared the plans of the standard type of quarters with the ones actually built for the Press employees noted above ; if not, why not ?

(c) Is it a fact that a room four feet square is called an ' Entrance Hall ' in the plan of the so-called " B " and " C " type quarters and many doors and fittings have been fitted ? If so, why ?

(d) Is it a fact that the doors fitted to the quarters are so small that beds and furniture cannot be taken in without dismantling them ?

(e) Why have the said " B " and " C " quarters been constructed adjoining duffry type quarters ?

(f) What is the name of the engineer or architect who has designed these quarters and what are his qualifications ?

Mr. J. A. Shillidy : (a) The reply to the first part is in the affirmative. As to the second part, the quarters actually built were naturally designed to suit the new site. The accommodation provided is somewhat

less than that allowed in the standard " B " type of quarter but is greater than in the case of the " C " type quarters.

(b) Government have not themselves compared the plans but they were approved by responsible authorities.

(c) No. The room in question is 6' 6" square and no unnecessary door has been put in.

(d) The doors are of the same size as in the standard type of quarters.

(e) The architect was asked to place these quarters as near as possible to the main Press building and they therefore adjoin the duffries' quarters but are divided off from them by walls.

(f) Mr. R. M. Love, A.R.I., B.A.

BUNGALOWS FOR THE MANAGING STAFF OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

135. **Mr. S. C. Mitra** : Is it a fact that two gazetted officers' bungalows have been built for the managing staff of the Press, although there is only one gazetted officer in the Press ? At what rate is rent recovered for these bungalows ?

Mr. J. A. Shillidy : One " C " class bungalow and one " D " class bungalow have been constructed for the Manager, who is a gazetted officer, and for the Assistant Manager, who holds a non-gazetted post. The latter class of bungalow is not reserved for gazetted officers only. The Manager of the Press is entitled to rent-free quarters. The question of the rent to be charged from the Assistant Manager is under consideration.

PLAN OF QUARTERS PROVIDED FOR PRESS EMPLOYEES IN NEW DELHI.

136. **Mr. S. C. Mitra** : (a) Will Government be pleased to state if it is a fact that the open spaces called squares provided in the Press quarters are considerably smaller than those in the Secretariat quarters ?

(b) Is it a fact that even the small space in the Press quarters has been occupied by building *dhobi ghats* and places for dumping night soil called *pail shutes* and there is no open space left for the children to play ?

(c) Is it also a fact that in the Press quarters all the latrines face towards the squares and standing in the squares one can see nothing but rows of latrines, *dhobi ghats* and *pail shutes* for night soil ?

(d) Is it a fact that the squares and quarters have been designed by an architect specially brought out from England for the purpose ? If so, what are the name and qualifications of that architect and what pay is given to him ?

Mr. J. A. Shillidy : (a) The areas at the back of the Press quarters are certainly smaller but they are not intended as playgrounds. There are open spaces in the front of the quarters for this purpose.

(b) Yes. This is the purpose for which they were designed.

(c) Yes. The conveniences referred to have naturally been placed at the back of the quarters and not in front of them.

(d) For the name of the architect please see the reply to part (f) of the Honourable Member's question No. 134. He was not engaged specifically for this work. His rate of pay is Rs. 1,275 per mensem, plus £30 Overseas' pay.

RENT FOR BUNGALOWS RECOVERED FROM THE MANAGER AND ASSISTANT MANAGER, GOVERNMENT OF INDIA PRESS, ALIGARH.

137. **Mr. S. C. Mitra** : Will Government be pleased to state whether any rent is recovered from the Manager and the Assistant Manager of the Aligarh Press for the bungalows occupied by them ? If not, why not ?

Mr. J. A. Shillidy : Both the Manager and the Assistant Manager of the Government of India Press, Aligarh, have been granted rent-free quarters as they are required to live in the premises in connection with their duties in the Press and the Postal Workshop

RECRUITMENT TO THE CLERICAL ESTABLISHMENT OF THE GOVERNMENT OF INDIA SECRETARIAT AND ATTACHED OFFICES.

138. **Mr. S. C. Mitra** : (a) Is it a fact that ministerial branch selection examinations are held by the Public Service Commission, when necessary, with a view to select suitable candidates for appointment to the ministerial establishments of the Government of India Secretariat and its attached offices ?

(b) Is it a fact that appointments are made in the Third Division of the clerical establishments of the Government of India Secretariat and its attached offices from the list of candidates who have passed the Public Service Commission examinations ?

(c) Is it a fact that in declaring the results of the examinations the Public Service Commission have due regard for the redress of communal inequalities ?

(d) Is it a fact that all the qualified Third Division clerks of the minority communities, including those who were declared qualified on a communal basis at the last two examinations of the Public Service Commission, have been provided for in the Departments of the Government of India and their attached offices, and that in spite of this the Home Department have issued orders recently to the effect that unqualified Muslim clerks and lady clerks should be employed in preference to the qualified candidates in certain vacancies in those offices ? If so, why ?

(e) Are Government aware that the orders referred to in part (d) are calculated to defeat the object for which the Public Service Commission ministerial selection examinations are held and have caused a good deal of discontent and resentment amongst the successful candidates on account of those orders ? If so, do Government propose to consider the question of cancelling those orders ?

(f) If the reply to part (e) is in the negative, will Government please state the reasons which render it necessary that recruitment to the clerical establishment of the Government of India Secretariat and its attached offices should be made through the examinations conducted by the Public Service Commission ?

The Honourable Sir James Crerar : (a) and (b). Yes.

(c) The redress of communal inequalities is a matter for Departments of the Government of India who are charged with the responsibility for preventing the preponderance of any one class or community. The Public Service Commission only supply the names of candidates of minority communities when they are asked for such candidates by the Departments.

(d) The reply to the first part is in the affirmative. As regards the second part, I would point out that the orders are to the effect that unqualified ladies and Muslims may be employed temporarily in vacancies earmarked for those categories until qualified candidates of the respective categories are available for appointment.

(e) and (f). Do not arise.

ELECTION OF MEMBERS TO THE ADVISORY PUBLICITY COMMITTEE.

Mr. President : I have to inform the Assembly that the following seven Members have been elected to the Advisory Publicity Committee, namely :

1. Mr. Arthur Moore.
2. Mr. P. G. Reddi.
3. Nawab Major Malik Talib Mehdi Khan.
4. Rao Bahadur Chaudhri Lal Chand.
5. Mr. Badri Lal Rastogi.
6. Mr. M. Maswood Ahmad.
7. Muhammad Azhar Ali.

RECOMMENDATION OF THE INTERNATIONAL LABOUR CONFERENCE *RE* PREVENTION OF INDUSTRIAL ACCIDENTS.

Mr. J. A. Sultlidy (Secretary, Industries and Labour Department) : Sir, on the 7th July 1930, a Resolution moved on behalf of Government was adopted by this House recommending that the Governor General in Council should examine the possibility of giving effect to the Recommendation concerning the prevention of industrial accidents adopted by the Twelfth International Labour Conference, 1929, and that the results of this examination should be placed before this House within 18 months from that date.

In pursuance of this Resolution a letter was addressed to all the major Local Governments and the Chief Commissioner of Delhi asking for their views. The replies have now been received, in the light of which the Government of India have undertaken a further examination of this Recommendation.

While there is a general agreement with the principle underlying the Recommendation, there is considerable criticism of the details. The Recommendation is divided into four parts and comprises no less than 23 Articles covering a very wide field of activities. The preamble to

the Recommendation extends its application "to agriculture, taking into account the special conditions of agricultural work". The general view of Local Governments, with which the Government of India are in agreement, is that in some respects the Recommendation goes beyond what is possible or necessary in the existing stage of industrial development of the country. In particular it is considered that, even with the proviso contained in the preamble, the application of this Recommendation in any form to agriculture would be inoperative in practice. The use of machinery in agricultural operations is in its infancy throughout India and it would be impossible to take any effective action which would ensure that legislative or administrative orders were carried out. Moreover, it is pointed out that both Parts I and II of the Recommendation presuppose an amount of co-ordination and co-operation between the three parties concerned, namely, Government, the employer and the employee which cannot be expected in existing Indian conditions. Labour in this country is still to a large extent migratory, illiterate and insufficiently organised to be able to undertake the various duties which are implicitly required of it by the Recommendation. In addition, there are certain proposals, particularly those relating to industrial accident insurance, psychological and physiological research, which postulate the existence of organisations and agencies which are either non-existent or still imperfectly developed.

On the other hand, the replies from Local Governments indicate that many of the items in the Recommendation are already in operation in varying degrees and that, in certain directions, further progress is possible and desirable. Indeed, many of the details involved in the Recommendation also find mention in the report of the Royal Commission on Labour. Thus, although the terms of the Recommendation cannot be accepted as immediately practicable, they may be regarded as forming a standard which employers, employees and inspecting authorities may gradually work up to in the future. Of the four parts into which the Recommendation is divided, Part III dealing with the legislation which each State Member should undertake is the only one on which definite action can be taken by Government. For the remaining parts, Government are dependent on persuasion and must first secure the co-operation of private organisations and associations. So far as legislation is concerned, Government are anxious that it should not be undertaken piecemeal. The Royal Commission on Labour have examined the working of the Factories Act and the Mines Act which are the principal Acts concerned and have made recommendations for their amendment and revision including proposals for industrial safety. The Recommendation of the International Labour Conference will need to be re-examined in the light of the Report of the Royal Commission in Labour, which has only lately been published. The examination of the Report is at present being pursued, but until this is completed, Government will obviously not be in a position to take any action. It may also be mentioned that the last reply from a Local Government to the Government of India's circular letter regarding this Recommendation was received only towards the end of June last, and, in view of the numerous criticisms of the details, the time available has been inadequate for arriving at any definite conclusions. As the Report of the Royal Commission on Labour covers the same ground as the Recommendation, the Government of India propose to proceed with the consideration of the latter simultaneously with the former and to give effect to it so far as may be practicable.

Mr. B. Das (Orissa Division : Non-Muhammadan) : Do I take it that the Government of India, in the light of their examination of the Labour Commission's Report and also these Recommendations, will themselves bring forward legislation without our applying pressure on the Government ?

Mr. J. A. Shillidy : I think I explained once before in answer to a question that there were a great many of these Recommendations of the Labour Commission, the decision on which would rest with the Local Governments. There were other matters in regard to which either the Local Governments or the Central Government could take action by executive order. As regards the legislation which the Honourable Member refers to, we are at present engaged in examining the recommendations of the Labour Commission. Some of these recommendations as I said will have to go to Local Governments. There are other recommendations which we have previously examined, the results of our examination having been given to the Labour Commission, and on these we shall certainly try to take action and prepare legislation as soon as possible. I can assure the Honourable Member that no pressure will be required from this House on Government to undertake that legislation.

Mr. B. Das : Does the Honourable Member expect that he will bring in such legislation at the winter session at Delhi ?

Mr. J. A. Shillidy : I would be most unwilling to give any promise, but our hope at the present moment is that there will certainly be certain legislation in the Delhi Session.

THE INDIAN PRESS (EMERGENCY POWERS) BILL—*contd.*

Mr. President : The Assembly will now resume further consideration of the Press Bill. Does any Honourable Member wish to move amendment No. 41 ?

Mr. B. Das (Orissa Division : Non-Muhammadan) : Yes, Sir. I move :

“ That in sub-clause (1) (b) of clause 4, before the word ‘ directly ’ the words ‘ subject as above ’ be inserted.”

This amendment has been given in pursuance of the note of dissent of the minority in the Select Committee. I may refer to their note of dissent which says :

“ Particularly in clause 4 (b) the closing lines to the effect that any printing press which directly or indirectly expresses approval or admiration ‘ of any person, real or fictitious, who has committed or is alleged to have committed any such offence ’ are too wide and might expose a person who incidentally comments upon the merits of the offender unconnected with the offence and without detracting from its gravity to the penalty of the section. We think that the clause should be made subject to the dominating purpose of clause (a).”

With that object in view, this amendment has been moved.

The Honourable Sir C. P. Ramaswami Aiyar (Law Member) : Mr. President, if my Honourable friend would realise that the word “ such ” occurs in two places in clause 4 (1) (b), he will see that what he really has at heart is carried out by this sub-clause, because if “ subject as above ” means anything more than that, it is superfluous and may lead to ambiguities. What I am saying is this : my Honourable friend wants to insert the words “ subject as above ” before the word “ directly ”, so that

it would read "subject as above, directly or indirectly express approval or admiration of any such offence or of any person, etc., who is alleged to have committed any such offence." The word "such" is correlated to what precedes and therefore there ought to be no real difficulty in the matter.

Mr. President: The question is:

"That in sub-clause (1) (b) of clause 4, before the word 'directly' the words 'subject as above' be inserted."

The motion was negatived.

Sardar Sant Singh (West Punjab: Sikh): Sir, I beg to move:

"That the words 'or indirectly' appearing in sub-clause (1) (b) of clause 4 be omitted."

The object of this amendment is this. As I submitted to the House yesterday, the clause vests a vague and very wide power in the hands of the executive. The word "indirectly" embraces a very wide range of subjects, and as the use of the power rests in one hand, probably on the report of the C. I. D. or of some member of the C. I. D., it is absolutely necessary that this power should be circumscribed and the words "or indirectly" be omitted. Sir, I move.

The Honourable Sir C. P. Ramaswami Aiyar: Mr. President, from the observations of the Honourable Member, it would appear that he is apprehensive lest the word "indirectly" should be extended unduly, but it must be remembered that the object of this Bill is to strike at a certain movement which is extolled or encouraged. Now, very rarely does it happen that the encouragement or eulogy is a direct eulogy—very rarely indeed does it happen that a newspaper article says that such and such a murder is an excellent thing or such and such an assassination is commendable. What they often do,—to cite an example,—is that a story is narrated, a kind of serial story in which it is stated that a certain lady, a queen in this case, strangles a General. She goes on to say, "As I have strangled so and so, let all the white people be strangled." But then another person says that is not right, so on and so forth. That is an extract which I have in mind, one out of these extracts which are before the House. My contention therefore is that if you want to hit this particular evil, if you want to combat this trouble, you cannot restrict your activities to direct eulogy or commendation, because no newspaper is indiscreet enough to indulge in such, and therefore this amendment is out of place.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran: Non-Muhammadan): Sir, I want to ask just one question. A newspaper publishes certain court proceedings in which an accused, say in a conspiracy case, has made a statement that he has murdered or wants to murder a particular individual. Now, will not the use of the word "indirectly" bring him under the purview of this section? I want only to know this.

The Honourable Sir C. P. Ramaswami Aiyar: My Honourable friend proves too much. If the publisher is perfectly accurate in what he has published, he will not come within the scope of this Bill, because if a newspaper publishes a comment of some proceedings in a court in which an accused person has made certain very dangerous statements, that would not be direct approval, and that is not the intent of this clause, because the whole question is whether the report of the proceedings has got the object or the effect of inciting or encouraging. If a newspaper publishes

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accurate reports of the proceedings of a court and confines itself to that, no Magistrate or High Court would say that that is itself incitement. But cases might easily be conceived of where, under the guise of publishing these proceedings, something more is sought to be done which will come within the purview of this section. The elimination of the word "indirectly" will not improve matters.

Mr. President : The question is :

"That in sub-clause (1) (b) of clause 4, the words 'or indirectly' be omitted."

The motion was negatived.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, I move.

"That in sub-clause (1) (b) of clause 4, the words 'real or fictitious' be omitted."

My contention is that the word "real" is redundant and unnecessary, because the person is a real person. But as regards the word "fictitious" my argument is based on a still stronger ground, because they make indictable even the eulogy or admiration of a fictitious person supposed to have committed murder or violence, even if he does not incite or encourage murder or violence. One could understand if the admiration or eulogy of the fictitious person, who is supposed to have committed a murder, resulted in incitement or encouragement to some kind of violence, because there would then be some justification for the use of this word. Now, the clause is already too wide, because it covers indirect incitement to murder. Will the Honourable the Law Member explain why Government have put these words "real and fictitious" in this clause also, because it will endanger persons delineating historical narration or writing a book or fiction. There may be a description of supposed murders and there may be reasons to admire their conduct, but if it does not lead to incitement to murder or violence, I do not know how it can come within the purview of this Bill at all. Sir, I move.

Mr. D. K. Lahiri Chaudhury (Bengal : Landholders) : Sir, I rise to support the amendment which has been moved by my friend Mr. S. C. Mitra, and the reason for my supporting my friend is this. In the Statement of Objects and Reasons to the Bill it is stated, "This Bill reproduces the first Bill as amended by the Select Committee". When the Honourable the Home Member made the motion for referring this Bill to the Select Committee, he said that Government have not sought to go one inch beyond the actual necessities of the case, but, Sir, I find in practice that the Home Member is not only going beyond one inch, but is going beyond one yard and more than that, because it has been definitely stated by my friend Mr. Mitra that the word "real" is redundant. There is also sufficient ground for us to oppose the placing of the word "fictitious" in this measure. I want to draw the attention of the Honourable the Law Member to one point. He just observed on the amendment which was last moved in connection with the omission of the words "directly or indirectly" that really papers which extol murder or violence cannot be brought within the purview of this measure and therefore it is necessary to retain the word "indirectly". I think the words "directly or indirectly" cover all the points, and the words "real or fictitious" need not be put

on the Statute-book. I hope the Honourable Member will see his way to at least accept this small amendment. With these words, I support my friend Mr. Mitra's amendment.

Mr. Amar Nath Dutt (Burdwan Division : Non-Muhammadian Rural) : Sir, I do not rise to support my friend's argument in the hope that it will receive that amount of attention from the Treasury Benches that it ought to. During the last three days we have been debating about the necessity or otherwise of this measure, and I have come to know sufficient of the mentality of the Mover of this Bill, so that I think it useless to stand up to support any amendment that may be proposed by my friends on this side. Now, if I rise to support my friend's amendment, I once more reiterate that it is not in the hope that it will be accepted by the Treasury Benches, but with a view to point out to them their error in endeavouring to kill not only the Press of India, but the literature of India. And if it falls upon deaf ears on the other side, as it will, I am sure there is a wider public which will condemn this portion of the Bill at least, if not the other portions, with the same voice and with the same unanimity as we have done on this side of the House.

Sir, open the pages of any of the books of our literature in Bengal. I yield to none on this side of the House about the glorious literature that we in Bengal have put forth during the last century, not excepting the Tamil literature which is as old as 2,000 years. (*The Honourable Sir C. P. Ramaswami Aiyar* : "4,000 years.") But at the same time, I think that at the present time, of all the living languages in India, we in Bengal can boast of a literature which no other language of this country can boast of. Begin from some of the books written, say, 70 or 80 years ago, for example, that great poem called *Britra Sanghar*, wherein there is certainly an approval of the murder of *Daityas*. Now, Sir, I hope my Honourable friends on the other side—*Sadhus*—are not so many *Daityas*. Sir, if that book is not an incitement to the murder of the *Daityas*, *i.e.* the demons, I think if my Honourable friend is a real *Sadhu*, he will join with me in having those demons killed. They are a blot on the civilisation of humanity and human history. Then I shall cite before you only one or two other books from the literature of my province. Let me mention, *Krishna Kanta's Will*,—one of the best works of fiction which not only my literature possesses, but I think it can rival any of the best works of fiction in the world. There *Rohini*, that dissolute woman, was murdered, and therein you will find the approval of the murder of that dissolute woman. Will you ask our authors, will you ask our novelists, not to write in that strain? Then, again, there are historical facts, about which there are poems. Take for example *Kurukshetra*—and I do not refer to *Palasir Juddha* by Nabin Chandra Sen, who was a servant of the bureaucracy which sits here on the opposite Benches. The very same author wrote *Kurukshetra*, and therein you will find an approval of murder. You will strike at the source of all literary activities if you really bring in the words "real or fictitious" in that way. Unless you have lost reverence for all the products of intellect, unless you have lost respect for human culture, and may I add human morality, you will not introduce such words here. My Honourable friend on the other side observed that, by taking away the words "directly or indirectly", you will render the section innocuous, because he said that no newspaper incites to murder directly but by an indirect way. I say here you are not only indirectly gagging our

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literature, but you are striking at the very fountain source of the intellect of the nation. You are trying not only to kill the Press but our literature also. We do not care if they go away from this land and thus enable our literature to flourish. In fact, before the introduction of printing press we had our Vedas, we had our Gitas, and the wisdom contained in those great books was handed down from sire to son, and it is still a source of inspiration to the millions in this country. Take away the Press, I won't grudge it, but in the name of taking away the liberty of the Press and forfeiting the same, don't gag the literature of this country, don't gag our poetry, don't gag the source of our inspiration for all that is great and good in human nature. Sir, I know that the Government will not accept this amendment. I will not add any words which may incite you to abuse us as you have been doing for the past few days. I know the reason of those abuses, and in fact, as you have a bad case you have no other argument than the argument of the fish woman. I wish that you had still some good sense left in you not to press for the retention of the words "real or fictitious".

Mr. B. Sitaramaraju (Ganjam *cum* Vizagapatam: Non-Muhammadian Rural) : I rise to support the amendment moved by my Honourable friend Mr. Mitra. Here we have got the word "incite" which is capable of covering both "directly or indirectly" and "real or fictitious", because "incite" is a much wider term and it is capable of covering all these things. By adding these words we are putting a wrong emphasis on them. With these few words I support the amendment.

The Honourable Sir C. P. Ramaswami Aiyar : I rise with some trepidation because it has been suggested that the addition of this particular word "fictitious" might involve either the condemnation or the destruction of very valuable literature. If I really felt that the glorious specimens of literature to which allusion had been made by my Honourable friend opposite would be hit by this addition, I should be very loathe to support it. But, Mr. President, I am afraid that there is a little confusion about this matter.

The word "person" has been defined in the General Clauses Act of 1897, and if it stood by itself, it would eliminate all possibilities of any document coming within this clause, which by a dexterous use of pseudonyms might serve the same purpose as the use of the real name but yet be outside this clause. Let me illustrate this, but before doing so, let me preface my statement by at once remarking that it is true that there are a great many works of literature in which killing has been referred to and generally extolled or eulogised. As a matter of fact, the Gita, which my Honourable friend on the other side and myself both regard as revelation, suggests that on the field of battle, physical or spiritual, you should not flinch from destroying your enemies. That class or category of work is really dealt with, Mr. President, by the Explanation which makes it abundantly clear, "No expression of approval or admiration made in a historical or literary work shall be deemed to be of the nature described in this sub-section unless it has the tendency described in clause (a)".

Mr. Amar Nath Dutt : The sting lies in the tail.

The Honourable Sir C. P. Ramaswami Aiyar : Most of the insects which have stings have them in the tail. What I am trying to prove is

that that category of real literature is excluded in that explanation. Suppose for a moment that the words "or fictitious" were omitted. There is nothing to prevent exactly the same thing which will be dealt with if real names were mentioned escaping beyond the ambit of the section by putting in asterisks or using some other device and then asserting that no real person has been referred to and so it does not come within the meaning of this clause. We are not all *Sadhus* and I do not know what particular advertence was made when my friend opposite referred to *Sadhus*. I am not a *Sadhu* myself, but at the same time we are all anxious that works of pure art or literature should not be proceeded against. There is no doubt that pure art or literature might be so twisted as to come within the scope of this Bill. Suppose a person wrote a wonderful poem which extolled murder definitely. There is no doubt that it would come within this Bill. The attempt is to combine the two things, firstly, to exempt literature unless it has that specific tendency referred to in this Bill, secondly, to make it clear that no devices or evasions by substitution of fictitious names for real names should exempt persons who are otherwise guilty under the Bill.

Mr. B. Das : Will it apply to literature already existing or to new literature ?

The Honourable Sir C. P. Ramaswami Aiyar : Apart from the general non-retrospectivity of Acts, it is impossible to conceive that suddenly the publisher of the *Gita* should be prosecuted under this Bill.

Mr. B. Das : The printers of the *Gita* might be prosecuted.

Mr. President : The question is :

"That in sub-clause (1) (b) of clause 4, the words 'real or fictitious' be omitted."

The motion was negatived.

Sardar Sant Singh : I beg to move :

"That in sub-clause (1), of clause 4, for all the words beginning with the words 'the Local Government may, by notice in writing' and ending with the words 'wherever found in British India to be forfeited to His Majesty' the following be substituted :

'the Local Government may apply to the High Court for the local area in which such press is situate stating or describing the words or signs or visible representations which in its opinion are of the nature described above. The High Court shall decide in the manner hereinafter provided if the newspaper, book or other document in respect of which the application is made did contain any words, signs or visible representations of the nature described above'."

I want to draw the attention of the Honourable Members as to how the clause will read after making the amendment I suggest. I am not objecting to part (a) or (b), but I want all the words beginning from "the Local Government may, by notice in writing" up to the words "forfeited to His Majesty" deleted, and the words I have read out to be substituted in their place. My submission is that, in moving my amendment, my object is to judicialise the proceedings from the very beginning. I shall recall to Honourable Members what I said yesterday in moving my amendment to clause 3. I was not surprised when the executive authorities opposed the principle of judicialising the proceedings, but my surprise was greatest when I found the Honourable the Law Member getting up and defending the executive action. I am reminded of the story of Mansur who was punished to be stoned by the public. He was taken

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through the town and everybody threw brickbats at him under the orders of the executive. As he was passing along, a friend of his who knew him and understood his teachings threw a flower at him in order to conform to the order. Mansur retained his self control and seemed

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to be indifferent to the shower of stones that hurt his body, but when the flower of his friend touched his body, he began to cry aloud. His custodians asked him what the matter was. "Why should this flower pain you more than the brickbat?" they enquired. He replied, "The other people did not know what they were doing, but this friend knew me—his flower hurts me more than the shower of stones." One can understand the executive trying to grasp and keep the power in its own grip, but one fails to understand, and to appreciate a gentleman who is not only an eminent lawyer himself but has risen to his present position on account of his ability and application of legal principles during his life, and probably his present position due to his intellectual gifts in the forensic field solely. I refer to the Honourable the Law Member. (Laughter.) I may add that he has got qualities of heart also! But when he got up to defend the theory that the rule of executive should be substituted for the rule of law, it pained me a good deal—and not only me, but I am expressing the sentiment of the whole country when I say that this is a very painful affair. Now this makes me put my case rather more vehemently than I should have done. In spite of the knowledge that we have got very few votes at our command, and in spite of the fact that we know that we shall be defeated, we have the consolation of feeling that there is the larger audience outside to judge between us and the executive, and that larger audience is fit to appraise the merits and demerits of this Bill. My submission is that, in order to convince my friend, I think I should bring a very high authority to bear upon my arguments; so I have decided to read out a certain portion from this book, "The New Despotism", written by no less an authority than the Lord Chief Justice of England and published as late as 1929.

Mr. Amar Nath Dutt: This is not a *new* despotism—it is an old despotism!

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadian Rural): Are you not satisfied with your yesterday's quotations?

Sardar Sant Singh: It is at page 24:

"Dicey, in his classical work on the law of the constitution, enumerates three distinct conceptions which are involved in the statement that the English constitution is characterised by the supremacy of the rule of law. The statement means, first, that in England no man can be punished or can be lawfully made either to suffer in his body or in his goods except for a distinct and definite breach of law, established in the ordinary legal manner before the ordinary courts. It means, secondly, that in this country not only is no man above the law but that every man, whatever his rank or condition may be, is subject to the ordinary law of the land and the jurisdiction of the courts. And, finally, it means that the general principles of our constitution are mainly the result of judicial decision determining the rights of private persons in particular cases brought before the courts."

This, then, is the conception of the rule of law. Sir, the Honourable the Home Member, while replying, referred to certain exceptions existing in England even and he was pleased to illustrate his position by referring to the obnoxious trades and other matters. Well, to my limited

intellect I cannot understand what he means and how the analogy holds good. When the executive is given power by the Legislature to pass a certain Bill, certainly despotism takes a different form. What was the old despotism? The despot sat in his place, and with the advice of his ministers or without the advice of his ministers, issued a decree or an ukase, and that was binding upon every individual. What is the new despotism? Under it, you establish a majority and by that majority you place before the Legislature a Bill and say, "Here is a law we want you to enact", and instead of issuing a decree without the sanction of the Legislature behind it, you pass it by the help of the mere force of numbers. What difference does it make? The old despotism is changed into the new despotism by the mere change of form,—nothing more. It remains there in substance. The real point, Sir, again brought forward by the Lord Chief Justice in England is, as he says :

"To summarise the matter, it may be said that the rule of law comprehends and denotes the following principle. No one can be lawfully restrained or punished or condemned in damages except for violation of the law, established to the satisfaction of a judge or jury or a magistrate in proceedings regularly instituted in one of the ordinary courts of justice. The rights of personal liberty and of freedom of speech, the liberty of the press and the right of public meetings are all the result of the application of this fundamental principle. Secondly, every one, whatever his position, minister of State or Government official, soldier or statesman, is governed by the ordinary law of the land and personally liable for anything done by him contrary to that law and is subject to the jurisdiction of the ordinary courts of justice, civil and criminal."

Now some Honourable Member may get up and say that there is the Judicial Protection Act for the Judges and there are certain other exceptions to this principle, meaning thereby that the rule of law as it is found in England does not find the same place in India. I know it that the exceptions have been created and that the executive has armed itself with the power to punish without reference to the procedure they ought to adopt, but it does not mean that, because there are exceptions already existing, therefore we should go on adding to them. If this country is to be governed by public opinion and with the aid of public opinion, then in that case it is absolutely necessary that the executive should move in response to public opinion, not in contravention of it. Therefore, my submission is that the present clause 4 offends against this rule. Further on, the learned Chief Justice has given the advantages which will follow from placing the matter in the hands of courts of justice instead of in the hands of the executive. He says :

"The work of a court involves many important ingredients, as for example :

- (i) that the judge is indemnified and is personally responsible for his decision ;
- (ii) that the case, subject to rare exceptions, is conducted in public ;
- (iii) that the result is governed by the impartial application of principles which are known and established ; and
- (iv) that all parties to the controversy are fully and fairly heard."

In other words, the decision of a court in every important respect is sharply contrasted with the edict, however benevolent, of some hidden authority, however capable, depending upon processes of reasoning which are not stated, and the enforcement of a scheme which is not explained. The administration of the law of the land in the ordinary court presupposes at least personal responsibility, publicity, uniformity and the hearing of the parties. These are the advantages of public trial. How can the Honourable Members on the Treasury Benches come forward and say that the Indian Press will not have those fundamental

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advantages guaranteed to them. The European Press will be free to write and say anything they like, but the Indian Press will be muzzled and bound down by an order passed behind their back. That is the position. If the thing is to be placed before the ordinary Judges and everything is to be done in public under the same procedure which is applied to the ordinary criminal, then everybody has a right to judge whether the culprit has been treated fairly or in a partial manner. Therefore my submission is that my friend the Law Member's position is not certainly clear to me when he says that there are occasions when the executive should be given the opportunity, and he claims that this opportunity should be given in this particular case because it is an emergency measure. What is the emergency measure? If this is an emergency measure, I would advise him, as the state of the country is going from bad to worse every day, to suspend all laws and all courts. After all we are in want of money. Disastrous taxation is facing us at the present moment and savings have to be made. Why not do away with the Magistrates, High Courts and all the paraphernalia that exist in the land and let the executive Government do as they please? Why not introduce legislation to the effect that for two years to come there will be no courts, no Magistrates, no Judges? That will be very much better. And here I am reminded of an article written in the *Statesman* which probably out-Herods Herod. In this article, dated the 27th September, the Editor writing under the caption "More Violence" says :

"It is the duty of an elected legislature to secure as far as possible that the innocent cannot suffer from the law. Since the Government must desire the same it has found no difficulty in creating a water-tight Bill by substantial alterations in title, preamble and text which clearly define the scope of the measure."

This is after the Bill came out from the Select Committee. Then it says :

"A murderous Press is a disgrace to the profession and we fail to understand the excessive enthusiasm for license which makes some prefer that incitement to murder should continue and the guilty go unpunished and undeterred rather than everybody should have a chance of defeating the object of the law to provide work for the lawyers."

This is the complaint, Sir, that the amendments that have come from this quarter are due to the excessive zeal of the lawyers; and the Honourable the Home Member was pleased to remark yesterday that we on this side of the House are merely pleading as lawyers without responsibility for the welfare of the country. After all we are the chief residents of this country; our sons will live in this land; our grandsons will enjoy the benefits that are conferred by us. It is not the Englishmen who will live in this land. The Englishmen will go away some day, does not matter when, but they are not permanent residents of this land. Therefore the interests of this country are more sacred, more real and more genuine for Indians than for Englishmen. Therefore to put forward the plea that we on this side are not actuated by a genuine desire to protect the interests of this country is not true at all. We are not here to provide work for the lawyer or to plead as persons with briefs plead. But we are really here to discuss whether you are transgressing the fundamental principles of law or not. If you transgress the fundamental principles of law, my submission is that you must be prepared

to meet opposition from this quarter of the House. Then, further on, the Editor of the *Statesman* has a very good fling at those who have tabled motions of amendment. He says :

“ They emanate from quarters which cannot be suspected of sympathy with terrorism or with the dubious left wing of the Congress.”

The implication behind this is that because we sympathise with the terrorist movement, therefore we have tabled these amendments. Is that fair play ? Is that the sort of Press which is to be protected ?

“ We find the active opposition of some Muslims extremely difficult to understand.”

Here is a lesson for our Muslim friends. Here is an attempt made, the thin end of the wedge thrown in, to create discord among the two communities in this House. This has been the game of the *Statesman* all along, and it has not been given up yet. Proceeding, he says that the respectable press should not be afraid of this Bill. Let us calmly examine this plea. My submission is that in its working no Indian press will be safe, and I will illustrate my position by referring to that very paper which Mr. Arthur Moore in his speech the other day described as quite safe and that paper is the *Tribune*. There was an anniversary of the late Bhagat Singh to be celebrated at Lahore and a notice was issued. The *Tribune* published that notice after striking out the objectionable passages which the editor thought should not appear in print. But in spite of that, in spite of the fact that the paper did not contain anything beyond the news, the particular issue of the *Tribune* was confiscated under the Ordinance which is the predecessor of this Bill. My submission is that no paper can be safe if the language employed in the Bill is so vast that it can net in anybody and everybody. My Honourable friends on the other side have refused to agree even to the most reasonable amendments proposed by this side. “ Indirectly tending to incite or encourage ”,—this is the vast net thrown wide, and every possible article or criticism can be brought under the purview of this. In spite of this vast power given them under the law, they are not agreeable to place the matter in the hands of the court. My submission therefore is that it would be most dangerous to hand over the power to the executive. The same authority, the Lord Chief Justice of England, thus describes the mentality of the executive :

“ An agreeable writer, collecting from the pages of Boswell and elsewhere individual opinions expressed by Samuel Johnson, has compiled and composed a kind of Johnsonian creed or soliloquy, which sums up concisely the essence of his faith. If a similar method were applied to the ardent bureaucrat, the amateur of the new despotism, his reflections might perhaps be indicated in some such creed as this :

1. The business of the executive is to govern.
2. The only persons fit to govern are experts.
3. The experts in the art of government are the permanent officials, who, exhibiting an ancient and too much neglected virtue, ‘ think themselves worthy of great things, being worthy ’.
4. But the expert must deal with things as they are. The ‘ foursquare man ’ makes the best of the circumstances in which he finds himself.
5. Two main obstacles hamper the beneficent work of the expert. One is the Sovereignty of Parliament and the other is the Rule of Law.
6. A kind of fetish-worship, prevalent among an ignorant public, prevents the destruction of these obstacles. The expert, therefore, must make use of the first in order to frustrate the second.”

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—this is a maxim which is particularly being followed in introducing this Bill—

“ 7. To this end let him, under Parliamentary forms, clothe himself with despotic power, and then, because the forms are Parliamentary, defy the Law Courts.

8. This course will prove tolerably simple if he can : (a) get legislation passed in skeleton form ; (b) fill up the gaps with his own rules, orders, and regulations ; (c) make it difficult or impossible for Parliament to check the said rules, orders, and regulations ; (d) secure for them the force of statute ; (e) makes his own decision final ; (f) arrange that the fact of his decision shall be conclusive proof of its legality ; (g) take power to modify the provisions of statutes ; and (h) prevent and avoid any sort of appeal to a Court of Law.

9. If the expert can get rid of the Lord Chancellor, reduce the judges to a branch of the Civil Service, compel them to give opinions beforehand on hypothetical cases, and appoint them himself through a business man to be called “ Minister of Justice ”, the coping-stone will be laid and the music will be the fuller.”

Is not the same mentality visible in the provisions of this Bill ? Therefore, Sir, my submission is that my learned friend, for whom I have the greatest respect, should reconsider his position. Then I will read this passage on page 102 of this book, “ The New Despotism ” :

“ But vital as the independence of judges has always been, there never was a time when it was more manifestly important than in these latter days, when the effect of so much that the Executive does or permits is to render it difficult for the Courts to maintain the rights of the individual. The method of attack, to be sure, is subtle enough. In Tudor and in Stuart times much was attempted in defiance of Parliament. The attempts ultimately failed, and failed signally. But despotism may be no less sinister, and perhaps even more mischievous, if it acts under the cloak of Parliamentary forms than when it seeks to act in direct opposition to Parliament. Let it be granted that there may be acute and well-intentioned persons who have persuaded themselves that the rights of individuals are perfectly safe in the hands of Government departments, and may properly and economically be left to be determined behind the back of one of the parties, by officials of the Executive, upon principles not to be explained. But that is not, or at any rate is not yet, the general view if the relevant facts are sufficiently well known. Meantime, however, judicial decision may often appear to be a stumbling-block in the way of the zealous official. The official course might be so much more smooth, and the official arm might be so much more powerful, if there were no troublesome Law Courts to stand between the Executive and the individual, the Crown and the taxpayer.”

Herein lies the reason, Sir, why the rule of law is more necessary in cases where the administration of infliction of penalty is to be more speedy. In the present clause you will find that the penalty imposed comes in certain cases to the extent of Rs. 3,000 and to the forfeiture of the press which may be a lakh of rupees or so in value. Again, Sir, in this case the opinion of the journalists who are directly concerned with the matter has expressed itself very strongly. They suspended publication for a day as a protest. Yesterday such news came from Bengal and to-day the news comes from Madras that Madras papers have closed their offices for a day as a protest against this measure. Therefore, my submission is, is it not high time that the executive should pause and reconsider their position ? What is this power which is being asked for the executive ? My Honourable friend in replying to yesterday's debate said that the onus is not thrown upon the aggrieved person. I have to differ from him in this reading of the Bill. The words, according to clause 25, as it stands are :

“ If it appears to the Special Bench on an application under sub-clause (1) of section 23 that the words, signs or visible representations contained in the newspaper,

book or other document in respect of which the order in question was made were not of the nature described in section 4, sub-section (1), the Special Bench shall set aside the order."

The Honourable Sir C. P. Ramaswami Aiyar: It may be useful for my learned friend to refer to clause 23, sub-clause (1), where it is stated "shall decide if the newspaper, book or other document in respect of which the order was made did or did not contain any words", and so on. Those were the expressions I referred to.

Sardar Sant Singh: I am very grateful to my Honourable friend for pointing out to me this provision, "did or did not contain any words".

These are the two words: so at the utmost, straining the language to the breaking point, I will say that what the Bill says is that the onus is thrown on both parties.

The Honourable Sir C. P. Ramaswami Aiyar: Quite so.

Sardar Sant Singh: Not on one party, but on both parties, while the principle of criminal jurisprudence is that the onus shall be upon the prosecution, upon the Crown, not upon the other party. That is why in my amendment I use the expression.....

Mr. President: May I know how long the Honourable Member is likely to go on? As to-day is Friday, I wish to adjourn early?

Sardar Sant Singh: I will take only five minutes more, Sir. That is why in my amendment I say "in respect of which the application is made did contain any words". I have omitted the words "did not". "Did" throws the onus entirely upon the prosecution, and this is the principle of law on which I insist. The object of this amendment is further illustrated by this fact that I do not want that a man shall be punished first and then should be asked to establish his innocence in a High Court by applying to the court. What I want is that the Local Government which is aggrieved that the Law has been violated should be called upon to move the High Court for the purpose of establishing that a certain press has offended. With these remarks I beg to move the amendment.

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. President: Further consideration of the amendment moved by Sardar Sant Singh.

Rao Bahadur Chaudhury Lalohand (Nominated Non-Official): Sir, the object underlying the amendment proposed by my Honourable friend, Sardar Sant Singh, is a laudable one. He has taken very great pains in framing his amendments and has put his case very lucidly before this House. But he has forgotten one thing. Yesterday, while replying to one of his amendments, the Honourable the Law Member made it clear to him that speediness of action was the essence of this Bill, as this was an emergency measure, and unless speedy action was taken the Bill was of no use. Since then the House has given its verdict

[Rao Bahadur Chaudhury Lalchand.]

once for all on a previous amendment for referring things to judicial courts rather than to the executive. Therefore, after that verdict, it was not fair for the Honourable the Mover to press his case for judicialising the procedure, even from the initial stage under this Bill.

Much has been made again of the liberty of the Press. Liberty of the Press, as I said the other day, has its limitations, like limitations on our liberty in every other walk of life. As an example everybody has a right to walk on the public road, nobody can be prevented from doing so. But supposing, somebody takes it into his head to exercise his right of occupying the whole of the road. Supposing he takes a spear in his hand and goes on the road attacking everybody that comes in the way, can that be called a due exercise of his right to walk on the public road? Will not the executive be justified in catching hold of him at once and send him to the nearest lunatic asylum? They would not, in fact they cannot wait for the judicial courts; they could not afford to let him proceed on his march and injure people on the ground that they must consult the Criminal Procedure Code to find out whether his offence is a cognisable or non-cognisable one, whether a formal complaint should be filed or the police should take that man away. The executive alone can deal with this man at once and take the necessary action. The present measure is exactly on the same footing. It is an emergency measure, and as such it can only be handled by the executive. If you take away these powers from the executive, you do away with the Bill altogether.

Then, Sir, we need not press this judicial *versus* executive controversy too far. Supposing a house is on fire, and there are 50 other houses in the same line and there is a danger of the fire spreading to the other adjoining houses. What will the executive officer do in such circumstances? He will at once come forward and give orders to demolish one of the houses with a view to break the line in order to save the other houses. If you want this case to be dealt with by a judicial officer, he will come and frame issues first. Supposing he is sensible enough not to make any inquiry into the causes of the fire at this stage, the least he will do is to have an estimate of the house, that was going to be demolished, prepared, for, there might be a suit for damages lodged against the Government and the price may have to be determined. He will then ask for the services of an expert engineer. Well, the engineer prepares the estimate of the house that is proposed to be demolished,—mind you all the while the fire is raging in all its intensity,—then they will say that the owner of the house that is to be demolished should be consulted, and the owner must naturally be given some time to object to the estimate prepared by the engineer. Well, suppose the owner is near by, he comes forward and gives his consent, but at the end of his statement he says that last year he had mortgaged the house for Rs. 15,000 to a man residing in Calcutta. In such circumstances, what is the judicial officer to do? Well, these are the difficulties in a judicial procedure. I do not mean any disrespect to the judicial procedure. (*Mr. B. Das* : "You are only libelling it.") It is dilatory and can never take the place of executive decisions. The functions of the two are different. Sir, I am only trying to point out that this is a case in which the executive alone could take prompt action. The amendments

of my Honourable friend are quite good, but they are good for a *pucca* Press Bill which probably will have to be brought forward when the new Swaraj Government comes. For, I cannot believe that any Government could sit with folded hands when such pernicious propaganda is going on in the press. With these few words, I oppose the amendment.

The Honourable Sir C. P. Ramaswami Aiyar : Mr. President, I realise that time is precious, and that it is the duty of every one on all sides of the House to be as brief as possible, and therefore, although I should have normally succumbed to the temptation of dealing with the many points so comprehensively dealt with by my Honourable friend opposite who moved this amendment, I propose to restrict myself only to two or three aspects. In the first place, let me at once dispose of what may be termed the personal argument. A very impassioned appeal was made to me, and it was suggested that there was something inappropriate or indecorous in my getting up and opposing amendments such as these, and something was said with reference to my career, and also very kindly, to my alleged qualities of head and heart. All that I can say is that I feel absolutely sure that my friend and his confreres, when they occupy these Benches, as I hope and trust they shortly will, will pursue exactly the same line as I am pursuing having regard to the immediate history of this particular act of legislation. For, let it be remembered, Mr. President, that two things were made abundantly clear at the outset of these discussions, firstly this was regarded, as my friend just now stated, as an emergency legislation, which is temporary in character, and it was therefore found necessary to arm the executive with certain initiatory or inauguratory powers. But care was taken at the same time to see that those powers when they entrenched or were likely to trespass upon the domain of private rights, should be subject to a careful scrutiny and an exhaustive investigation by the courts of law. It appeared to me, listening to the appeals and the arguments of my Honourable and learned friend, that he had omitted to realise the existence of clause 23 altogether, that he had omitted to see that there was a recourse to the High Court, and the procedure of the High Court is also indicated in the Bill. What is contemplated by this provision and clause 23 taken together is that the first step is to be taken by the executive, but that the rightness or wrongness of that step should be tested and exhaustively tested in the High Court.....

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : Exhaustively !

The Honourable Sir C. P. Ramaswami Aiyar : I adhere to the expression exhaustively because—thanks to the labours of my Honourable and learned friend opposite—certain objections which were raised to clause 23 and which were very forcibly formulated in the course of the earlier discussions have been surmounted, and that is why I again reiterate and use the word exhaustively. Then a great deal was said with regard to the new despotism which it was asserted was being copied from England and enacted in the shape of this Bill, and copious extracts were forthcoming from Lord Hewart's book on "The New Despotism". As passage after passage was read, there flashed across my mind another passage which I remembered to have read from the same book some time ago, and so I took the liberty of asking my Honourable friend to lend me his book. Let me read that passage, and from that you will find exactly what

[Sir C. P. Ramaswami Aiyar.]

the evil was which was inveighed against by Lord Hewart. What he says is this :

“ A little inquiry will serve to show that there is now (in England) and for some time past has been a persistent influence at work which, whatever the motives or intentions that support it, may be, has the effect of placing a large and increasing field of departmental authority beyond the reach of the ordinary law.”

Sir Hari Singh Gour : May I ask the Honourable the Law Member whether that is not what the Lord Chief Justice condemns and whether it was not in consequence of statements of that kind that a Committee was appointed for the purpose of going into the question as to how far the executive had encroached upon the rights of the Legislature ?

The Honourable Sir C. P. Ramaswami Aiyar : I am deeply obliged to my Honourable and learned friend for recalling to this House all those incidents as I was going to make remarks very similar to those which have emanated from my Honourable and learned friend. What I was anxious to point out and reinforce was this that in England it was found that gradually departmental authority, or what may be called the reign of bureaucracy, was tending to encroach on the domain of law and keep itself above law, above the ordinary activities of the ordinary courts of justice, and therefore, Lord Hewart gave a great lead in that book “The New Despotism”. But mark what follows. In that passage which I have read out, what he strongly protests against is departmental action which is placed beyond the reach of ordinary law. I state that so far as this measure is concerned, executive action or authority or exercise of authority is not placed beyond the reach of ordinary law but is subject to the scrutiny and investigation and decision of the ordinary courts of law. Now, it is an interesting commentary upon that Committee to which reference has been made by my Honourable and learned friend—that Committee which was designed to find out the encroachments of the executive upon judicial authority—that to-day England is living in a reign of Orders in Council following upon an Act of Parliament consisting of one section (Laughter), but that is perhaps neither here nor there. The only thing that I wish to say is this, that even in England, that home of liberty, whose institutions we are endeavouring to copy, and I hope will successfully copy, we have these Orders in Council or executive dictates and one comprehensive section to cope with an emergency, and in order to meet that emergency such powers have been taken by the executive with the unanimous consent of the three great organised parties of the State.

Mr. President, what I desire to add is this, that the Honourable gentleman, Sardar Sant Singh, is perfectly consistent and perfectly logical. What he desires to do is to get rid of the executive action *ab initio*, get rid also of what may be called the limited scope of the authority of the High Court, institute a procedure closely assimilated to criminal trials from beginning to end and give to the High Court all the powers which it would normally and ordinarily have in a criminal trial. That is his object and intention, and I realise that I have interpreted his intention correctly because I see his approval manifested. That being so, the difference between this side and the other side, or that portion of the other side which is really represented by my Honourable friend is this. Are you going to have speedy executive action

subject to judicial cognisance afterwards, or judicial action *ab initio* ? That is the only matter, that is the narrow issue before the House. I have attempted elsewhere and on earlier occasions to point out what the object of this Bill was and why it was considered essential to have judicial cognisance with those safeguards superadded to preliminary executive action.

Mr. S. C. Mitra : I have heard with great attention what the Honourable the Law Member has said. He thinks that executive orders should be substituted for judicial proceedings. I know as a lawyer he is bound to espouse any cause with which he is entrusted, and I am quite sure that he would have made quite a different speech had he been to-day sitting on this side of the House.

It is difficult to fight this mighty Government on the part of poor press owners and publishers once the executive orders are passed, and I crave your permission to read a certain passage to show how the executive mind works. They have taken trouble to publish this big volume, from which I will show what passages they consider will come within the purview of the Bill that is before the House. Mr. Arthur Moore, the Leader of the European Group, quoted extensively from that book, and I hope you will excuse me also if I read some passages from the same. I know the remarks are strong, but I invite the House to tell me how they incite or tend to incite to murder or acts of violence. You will see for yourself that the remarks are very strong against the Anglo-Indian community and the Anglo-Indian Press at whose instance the Honourable the Home Member has thought fit to bring in this measure. (*Mr. E. Studd* : "Question.") I read from page 54 :

" *Liberty* (Calcutta) of the 2nd August, 1931, writes :

' It is regrettable that Anglo-India, almost the whole body of it, has started a dishonest, a cunning, a spurious agitation over recent violent outrages. It is neither surprising nor disconcerting that Anglo-Indian exploiters of India should have mainly sought to make political capital out of tragedies which ought to move our humanity deeply and give to statesmanship food for serious reflection. For panic and foolishness we should make ample allowance but for perversity and mischief there is none so poor in spirit as to offer pity. It is not for us to allay a storm deliberately raised for political exploitation. It is not for us to show up shameless pretenders and obstinate hypocrites. An earlier generation set up a howl against a conciliatory Viceroy and packed him off. The plan is more comprehensive to-day. Anglo-India is out to wreck the prospects of peace in India and to deceive her out of the goal of freedom. It has asked the Government 'to govern or go out'—(that is what the *Statesman* says)—if the existing Government cannot discharge its functions—at the dictation of Anglo-India—' they must prepare means for finding another ' !

Lashed into fury by outbreaks of violence and lawlessness, these bullies would take the law into their own hands 'to drive out terrorism by terror'. They threaten 'the gravest events' if the Congress which is 'guilty of murder' which has 'fresh blood upon its hands' is admitted into the Round Table Conference. A Conservative backbencher, one Bracken, in spiritual affinity with the Anglo-Indian pack, has blamed Mahatma Gandhi for assassinations and said that 'the Government of India should have tried him for incitement instead of inviting him to St James Palace'."

I shall make no apology for reading another passage to show to the House that that it is not against incitement to murder or acts of violence that this Bill is intended. From the selections that have been made in this volume you will see that those newspapers are against murder. I have carefully read through every selection, and they condemn violence, not to speak of murder, but wherever they criticised the Anglo-Indian press, it was taken as though they criticised the Government of India. You

[Mr. S. C. Mitra.]

will therefore excuse me if I read some more passages to show that this Bill is intended not against any incitement to murder or acts of violence, but only to crush the press the Honourable the Home Member intends this Bill. Let me read from page 53 of these Selections :

“ A meeting of the European masters of this country was lately held at the Dalhousie Institute. All the people of this country are now regretting the unjust murder of Mr. Garlick. All thoughtful men in the land believe that these acts of lawlessness put serious obstacles to the progress of the nation. But one's mind is embittered by the bitterness of feeling displayed in resolutions adopted by the European Association. Nobody holds the entire European community responsible for the agony inflicted on the oppressed coolies by tea garden managers. No revolt was proclaimed against the whole English race because of the fiendish Jallianwala Bagh massacre by Dyer. For the daily persecution of the black by the white only individual justice has been demanded and the people of the country have never been mad enough to start an attack on all whites in consequence. The need of an explanation from the Viceroy or the Premier has never been felt for the lives of the people of the country taken by police shots, with or without reason in this country.”

I wish I could read other passages because this House has been prejudiced by reading extensively by Mr. Moore, passages from unknown papers, but these are the more responsible papers, which I quoted. This book is in the hands of all Honourable Members and they will find that incitement to murder and acts of violence have all along been condemned by the Indian Press. Now, the cat is out of the bag. The Honourable the Home Member wants to crush fair criticism and the liberty of the Indian Press, so that there may be no spirit of nationalism kept alive. My friend, Sardar Sant Singh's amendment is only for the substitution of judicial proceedings instead of executive orders. Why should Government be anxious to pass this Bill without changing a comma or a semi colon. The Home Member is determined to have his pound of flesh. Yet the country knows how unreasonably the provisions of section 124-A. have been interpreted so that everything can be brought under it. Why should you be afraid of a judicial proceeding in a court of law? The Honourable the Law Member says that judicial proceedings will come later on. In clause 3 you will find the word “ may ” instead of “ shall ”, so it is permissive. You don't find any provision that reasons should be given for demanding security. In those circumstances what will the High Court do? If there are no reasons stated on the demand for security, the High Court is helpless. As has been shown in the *Comrade* case, even the judicial procedure that is being talked of so loudly is really a farce. It will give no protection. As I have shown, Sir, the passages I have read out to you are really strong criticisms but were never intended to incite murders or violence. Sir, I support the motion of my Honourable friend, Sardar Sant Singh.

Mr. B. N. Misra : (Orissa Division : Non-Muhammadan) : I would not have opened my mouth, but as we are proceeding I feel that the Government are bent upon suppressing and oppressing the Indian Press. If their only object is that incitement to murder must be stopped, we are all agreed to stop this incitement. If that was the only object, you do not want to a three day's discussion of this Bill. Now, Sir, I ask, why do you find so many people against the Treasury Bench? We in these benches have cried ourselves hoarse and why should the time of the House be wasted like this? Really we feel that the Honourable the Home Member wants to institute a system of slavery. I think that most

of the Members of this House have experience of our Magistracy. I have practised in the courts for a quarter of a century, at least 27 or 28 years. I shall quote a specimen of a Magistrate in order to make my point clear. In the early part of 1904 or 1905, I appeared before a Magistrate of ten years standing. When I appeared in the first case, he had to acquit my clients and he then admired me. He said, "During my ten year's magistracy I have never acquitted a man, especially if it was a police case". Even in private cases when there was a medical certificate held by the complainant, he always convicted the accused. In my case the complainant had a medical certificate and he had to acquit the accused. That is the mentality of Magistrates. They take their orders from the superior officers like the District Magistrate or Police Superintendent. They are told they ought to have an elastic conscience. The District Magistrate's advice to him was that his conscience must permit of everything. He must carry out the orders of the District Magistrate. Even now a days the something is happening. If our Magistrates were really administering justice, there would not be any grievance at all. The Subordinate Magistrate simply has to obey the orders of the District Magistrate, which proceeds from the Commissioner of the Division or the Local Government or the India Government. That is the kind of mentality of our Magistrates. I do not know whether the Honourable the Home Member has practised in the law courts but he must have been a Magistrate in his younger days. All our fears are due to the mentality of our Magistrates. The law is not administered except according to the whim of the superior officers. I should say our Magistracy are not human beings. They are slaves who have to carry out the orders dinned into their ears by the Police Superintendent or the Magistrate of the district. That is the mode of the administration of justice by the Magistracy.

Now, Sir, I come to the motion of my friend, Sardar Sant Singh. Sir, my friend is asking that the Local Government should apply to the High Court. Now, where is the objection to that? If the Government are afraid because the High Court will be independent and will administer impartial justice to people and, that is perhaps the only ground on which they can oppose giving them this power because they will be in difficulty. But illustrations like, "Oh, the house is burning", "The British Empire is dwindling" are more dreadful illustrations. But as a matter of fact I do not think, none of us believes, that the house is really burning, or that the British Empire is crumbling, and so forth. Sir, the house is not burning, and the British Government will continue for long. So that this kind of alarmist argument is unreasonable and simply sophistry. Sir, we have amongst ourselves what are called *Astikas* and what are called *Nastikas*, believers and unbelievers in God. The latter class do not believe in God in spite of all his manifestations on earth. They do not see the real state of things. Now, please consider, why there are so many people who differ from the Government Bench? If they think, Sir, that we are so many mad people, and they think that they are the only sane and wise people, then why not send us to the lunatic asylum (Laughter)? If, however, they think we have some sense, some reason, then I tell them that, after reconsideration, after thinking over our objections, they should not persist in the error of their ways. Their action, instead of suppressing murders or putting a stop to incitement to murder, will recoil on them tenfold, and there will be ten times as many

[Mr. B. N. Misra.]

murders as are committed in the country to-day. (Hear, hear.) (Laughter from the Official Benches.) Sir, this is not the way! What is the real way? Sir, there was a time when the Europeans, were welcomed almost as Gods. I remember my old father saying half a century ago that he had implicit faith in these white people and that he had no faith in the dark people of this country, but, Sir, he had reasons for that, because that was the real state of things in those times,—I may tell you, that the Pandas of Jagannath welcomed even the Europeans and offered them free into the temple. But now, Sir, their crookedness and their avarice have soared very very high, and their behaviour....

Mr. President : The Honourable Member must address the Chair.

Mr. B. N. Misra : Why do they put themselves in the position (An Honourable Member : "Look towards the Chair") of enemies? Do they think it is a human thing to commit murders, is it natural that human beings should commit murders? I think you have experience and you know. (Laughter.) If a child cries, any one picks up the child out of sheer human sympathy? Sir, unless one's mind is abnormal or deranged, no one commits these murders. Then why do these people commit murders? I say, for their sins, for their actions: and they must think over their past *karma*, and their past actions.

Mr. President : The Honourable Member must address the Chair.

Mr. B. N. Misra : I am addressing the Treasury Benches through you, Sir. The Government officials must realize what their duty is; they must recall their own past actions and their own past deeds. Sir, somehow or other it is always beneficial to calculate our own actions, and to review our own sins and actions: I say those Government officials—who fall victims to these attacks. It must be due to their unreasonable and passionate actions and behaviour. They must think of it and should take a lesson from the consequences of their actions. The position, then, is that the present amendment proposes that the Local Government should apply to the High Court. That is an obviously reasonable motion which I think the whole House ought to carry.

Mr. Ram Prashad Narayan Sahi (Bihar and Orissa : Nominated Official) : On a point of information, Sir, may I ask the Honourable Member whether in the instance he previously gave us of the purport of his conversation with a Magistrate, the Magistrate was in his senses when he told him what he has told us?

Mr. B. N. Misra : I personally was told. I believe in their sober moods. (Laughter.)

Mr. President : The question is :

"That in sub-clause (1) of clause 4 for all the words beginning with the words 'the Local Government may, by notice in writing' and ending with the words 'wherever found in British India to be forfeited to His Majesty' the following be substituted :

'the Local Government may apply to the High Court for the local area in which such press is situate stating or describing the words or signs or visible representations which in its opinion are of the nature described above. The High Court shall decide in the manner hereinafter provided if the newspaper, book or other document in respect of which the application is made did contain any words, signs or visible representations of the nature described above'."

The motion was negatived.

Sardar Sant Singh : Sir, I beg to move the following amendment which stands in my name :

“ That in sub-clause (1) of clause 4 for all the words beginning with the words ‘ the Local Government may, by notice in writing ’ and ending with the words ‘ wherever found in British India to be forfeited to His Majesty ’ the following be substituted :

‘ the Local Government may authorize any person to file a complaint before the magistrate having jurisdiction in the place where the press is situate stating or describing the words, signs or visible representations which in its opinion are of the nature described above to proceed against the keeper of such a press. The magistrate thereupon shall proceed to try the accused in the manner provided in the Trial of Summons Cases in the Criminal Procedure Code Act V of 1908 ’.”

Sir, I am not going to make a speech in support of this amendment except to speak a few words. I know the Treasury Benches are not prepared under any circumstances to give power to the judicial authority to determine the question of guilt or innocence of the person proceeded against. The only justification which has been put forward is that it is an emergency measure and as such speedy action is required ; and secondly they say that I have omitted to take into consideration the provisions of clause 23 providing for the examination and scrutiny of the acts of the Local Government by the High Court. To these two points my reply is this.

Mr. President : Order, order. I should like to invite the attention of Honourable Members to the manner in which the discussion is proceeding. It is a well recognised practice that when an alternative amendment is moved the old ground is not allowed to be covered because that is repetition. The Honourable Member has made a certain change in the second amendment which he is now moving, and he will be allowed to address the House to the extent of the new matter which is introduced in the alternative amendment. The Honourable Member in his first amendment wanted that the Local Government should be authorised to apply to the High Court. In the alternative amendment he says that the Local Government may authorise any person to file a complaint before a Magistrate. This is the only new matter he introduces ; he will be required to restrict himself to such new matter only.

Sardar Sant Singh : I bow to the ruling of the Chair and I accept the suggestion. Therefore, I do not intend to make a speech as my suggestion is in the amendment itself. Sir, I beg to move.

The Honourable Sir C. P. Ramaswami Aiyar : Sir, I do not propose to say more on this point than that the amendment suffers from the same infirmities to which I have already drawn attention in the earlier parts of the discussion.

Mr. President : The question is :

“ That in sub-clause (1) of clause 4 for all the words beginning with the words ‘ the Local Government may, by notice in writing ’ and ending with the words ‘ wherever found in British India to be forfeited to His Majesty ’ the following be substituted :

‘ the Local Government may authorise any person to file a complaint before the magistrate having jurisdiction in the place where the press is situate stating or describing the words, signs or visible representations which in its opinion are of the nature described above to proceed against the keeper of such a press. The magistrate thereupon shall proceed to try the accused in the manner provided in the Trial of Summons Cases in the Criminal Procedure Code Act V of 1908 ’.”

The motion was negatived.

Sardar Sant Singh : Sir, I beg to move the next amendment :

“ That in sub-clause (1) of clause 4 for all the words beginning with the words ‘ the Local Government may, by notice in writing ’ and ending with the words ‘ wherever found in British India to be forfeited to His Majesty ’ the following be substituted :

‘ the Magistrate having jurisdiction in the place may by notice in writing to the keeper of such printing press shall call upon him, stating or describing the words, signs or visible representations which in his opinion are of the nature described above to show cause why in cases where security has been deposited such security or any portion thereof should not be declared to be forfeited to His Majesty or where no security has been deposited why his declaration under section 4 of the Press and Registration of Books Act, 1867, should not be annulled ’.”

I beg to move.

The Honourable Sir James Crerar (Home Member) : Sir, for the reasons explained already by my Honourable colleague, I cannot accept this amendment.

Mr. President : The question is :

“ That in sub-clause (1) of clause 4 for all the words beginning with the words ‘ the Local Government may, by notice in writing ’ and ending with the words ‘ wherever found in British India to be forfeited to His Majesty ’ the following be substituted :

‘ the Magistrate having jurisdiction in the place may by notice in writing to the keeper of such printing press shall call upon him, stating or describing the words, signs or visible representations which in his opinion are of the nature described above to show cause why in cases where security has been deposited such security or any portion thereof should not be declared to be forfeited to His Majesty or where no security has been deposited why his declaration under section 4 of the Press and Registration of Books Act, 1867, should not be annulled ’.”

The motion was negatived.

Mr. S. C. Sen (Bengal National Chamber of Commerce : Indian Commerce) : Sir, I beg to move :

“ That part (ii) of sub-clause (1) of clause 4 be omitted.”

This clause is an innovation of the Select Committee, to whom the last Bill was sent for consideration. This was not in the original Press Act of 1910 which was passed at a time of very great emergency and when the anarchy movement was at its height. The Legislature at that time did not think fit to put in a clause like that. Then after the lapse of some twenty years, the Press Act was introduced in the shape of an Ordinance by His Excellency the Viceroy. In that also this clause was not put in. That Ordinance was the most recent experience of the administration of this law in this country, but I do not think that up to now any complaint was made either by the Local Governments or by the Government of India about the absence of this clause. In the Bill which was again introduced in the Delhi Session, this clause was not also put in. That shows conclusively that the Government did not feel embarrassed by the absence of this clause. If so, why should this clause be added now ? No reason has been given why this clause should be added. In the report of the Select Committee we find this passage only :

“ The latter portion of sub-clause (1), therefore, provides for the case where security has been deposited, and also for the case where security has not been deposited. In the latter case, as there is no other means of making the order effective, we have provided that the press itself may be forfeited. An application to the High Court will lie against this forfeiture.”

Now, Sir, what was the state of things when the old Press Act was in existence or, when the Ordinance was in existence? Did they feel any embarrassment because there was no such clause? They say here, "There is no other effective means of making the order effective". Why? The effect of this is that the keeper of the press would be debarred from carrying on his own business. To understand this let us see what was the preventive which they had and what is the preventive which they want now? The same thing. Nothing more than that the keeper of the press would be prevented from carrying on his business. Moreover, there is another objection to this. If I pay the security, then I shall be entitled to invoke the aid of clause 13 of the Bill which says:

"Where any person has deposited any security under this Act and ceases to keep the press in respect of which such security was deposited, or, being a publisher, makes a declaration under section 8 of the Press and Registration of Books Act, 1867, he may apply to the Magistrate within whose jurisdiction such press is situate for the return of the said security; and thereupon such security shall, upon proof to the satisfaction of the Magistrate and subject to the provisions hereinbefore contained, be returned to such person."

Now, there is that remedy. If I pay the security, I can come under this provision, that I do not want to keep the press. I want my license to be cancelled and therefore the Magistrate would return the security to me. In the other case if I fail to pay the security because it may be abnormal, beyond my power and I do not wish to carry on business, I cannot go before the Magistrate and my only remedy lies by an appeal to the High Court. Under these circumstances, I submit that this clause should be deleted.

Mr. S. C. Mitra : I cannot understand why, instead of for a fixed amount, the Government is for the forfeiture of the entire press. In fact a big press may cost a lakh of rupees or more and in that case it means a fine of a lakh of rupees, while for a small press which costs only Rs. 200, it means a fine of only Rs. 200, though the offence and its gravity may be the same in both the cases. I do not see why there should not be a fixed sum as contemplated in other clauses of the Bill. This means unequal punishment on different persons committing the same offence. I think that Government will even now consider whether they should not fix the amount and exclude the provision for the forfeiture of the press. I, therefore, support the amendment.

Pandit Satyendra Nath Sen (Presidency Division : Non-Muhammadan Rural) : Sir, we have watched with amazing interest how the Honourable the Home Member, sometimes backed by his worthy colleague, the Honourable the Law Member, has been unrelenting in regard to all the previous amendments that have been moved by us. But still I make bold to stand up to support this amendment and I do it not in the manner of a drowning man catching at a straw, but fully conscious of the fact that this is the most cruel and severest part of the Bill. Sir, I implore the Honourable the Home Member to give his best attention to this part of the Bill and I hope he will not object to this clause being deleted. I want to put one question to the Honourable the Home Member point-blank. Should we go on moving our amendments simply to be told by him that he has already given his best attention to these amendments in the Select Committee and he is not prepared to give further consideration to these amendments? Sir, I doubt very much if the Honourable the Home Member or any other Honourable Member is in order when he refers to a Bill which

[Pandit Satyendra Nath Sen.]

is not before the House and the details of which we are not supposed to know, and I refuse to admit that a comparison with the original Bill is the criterion of propriety. Sir, I hope the Honourable the Home Member will yet see his way to accede to our request at least in this case.

The Honourable Sir James Crerar : I propose to reply immediately to the question which was put to me by the Honourable Member opposite, but to restrict myself entirely to the amendment which is before the House. I had occasion once before to point out to Honourable Members that on every amendment on which I have hitherto spoken in the course of the debate I have been able to show that, in the course of discussion, important changes had been made by Government in response to criticism which was being passed. We were able to do so even in the present case. If Honourable Members—and in this context I wish to refer to another clause of the Bill—if Honourable Members will refer to clause 5, which will come under consideration, they will see that a very important change is being made. The original clause 6 of the Bill provided that in certain circumstances both the security and the offending press should be forfeited. Now this is a very important change. The present clause which is now under discussion makes provision for two circumstances. If security has been deposited then that security is liable to forfeiture and in respect of that forfeiture an application can be made to the High Court. If security has not been deposited, then this clause enables the press itself to be forfeited and against that forfeiture too, an application lies to the High Court. But it is perfectly obvious that if the keeper of a press contumaciously refuses to obey an order of deposit, the deposit cannot be forfeited and therefore to give effect to the order, the press should be forfeited. This clause provides for it ; the keeper of a press who desires to preserve his press from forfeiture can always do so by complying with the order to deposit security. If that security is forfeited, he has got his remedy before the High Court. I submit that not only does this clause comprise a perfectly reasonable provision, but it is a provision the omission of which would clearly be vital to the whole purpose of the Bill so far as presses are concerned.

Pandit Satyendra Nath Sen : I want to know one thing ; will the press owner be allowed to make his deposit when the order of forfeiture has already been passed ?

The Honourable Sir James Crerar : He has every opportunity of making his deposit when the order to deposit security has been made and he is given a reasonable interval to do it.

Mr. President : The question is :

“ That part (ii) of sub-clause (1) of clause 4 be omitted.”

The motion was negatived.

Mr. S. C. Sen : Sir, I beg to move the next amendment which stands in my name, namely :

“ That in the *Explanation* to sub-clause (1) of clause 4 the words ‘ unless it has the tendency described in clause (a) ’ be omitted.”

I move this because I have not understood the *Explanation* itself. It is suggested in the Report of the Select Committee that they have added this explanation as a safeguard for *bona fide* literary and historical writings. I do not see where the safeguard comes in. It says, “ Unless it has the

tendency described in clause (a)”. I do not understand what is the object of putting in these words, if you want books of this character to be published. The tendency described in clause (a) is, “incite to or encourage”—I do not comment on that—“or tend to incite to or encourage the commission of any offence of murder or any cognizable offence involving violence”. That is the tendency referred to in this clause. Now tendency has a much wider meaning than mere encouragement or incitement. Therefore, if under clause (a) incitement or encouragement have not been put in but only the words “tend to incite or encourage” a person reading such things, that would be sufficient and that would cover everything wanted by the clause (a). By adding these words “unless”, etc., you have taken away with one hand what you have given with the other. Under these circumstances I think it does not give any safeguard to the publisher of a book or historical writing, and I do submit these last words should be deleted if the Government are earnest and sincere in their desire to create a safeguard for the publishers of these books. Even the Gita would come under the definition; even a history about Shivaji would come under this. It would be impossible for any person writing a historical book to write it in such a way as will not, although he may not intend to do it, come within the purview of this clause.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I had no intention of speaking to-day, especially as I have not been well since yesterday; but I get up only to give a bit of advice to Members on this side of the House. It is no use. My advice to them is not to get up and move any more amendments. We have seen since yesterday what is happening. Government are passing this Bill in any way they like; they do not want to agree to any amendment that we have given notice of; we gave in 116 amendments, but I do not think that even one amendment will be accepted or passed. We realise on this side how few we are now and on the other side how many there are. But I thought I might say a word or two in order to tell the Government how all these arrangements are at their complete mercy and how they may be exercising their sense in agreeing to certain amendments which are very necessary. You are not asking for the amendment with regard to clause 3. With regard to this clause you are giving with one hand and taking away with the other. Read the Explanation for yourself; the Explanation says :

“No expression of approval or admiration made in a historical or literary work shall be deemed to be of the nature described in this sub-section unless it has the tendency described in clause (a).”

Up to the words “unless it has the tendency” it is all right. You are providing this Explanation in order to see that no approval or admiration is made punishable, but then you take it away with the other hand by saying “unless it has the tendency”. That means that it will be twisted in every case to mean that the admiration or approval has the tendency described in clause (a). I would therefore submit these few words as I am going away to-day and I think many other Members are also leaving to-day.

Mr. Gya Prasad Singh : Sir, I do not want to make a speech, but I would seriously ask the Government to realise the reasonableness of this amendment, because in the speech which my Honourable friend the Law Member just made he was anxious to protect literary and historical

[Mr. Gaya Prasad Singh.]

writings. Now the retention of this expression " unless it has the tendency described in clause (a) " will effectively do away with the protection which the Government seek to afford. I will quote an instance. Suppose a print of the Gita is made by a printing press, and as my Honourable friend the Law Member himself has said, in the Gita or elsewhere in some historical or literary books, murder has been extolled under certain circumstances. If that particular book is printed from a particular press, and if it is followed by a murder elsewhere of some person, Indian or European, will it not, under these words, be quite open to the District Magistrate to say that this particular murder has been committed as a result of the publication of this book by the printing press ? I want to be satisfied only on that, because as it stands it is liable to be misused and misapplied by some of the Magistrates. I hope under the circumstances the Government will see the reasonableness of this amendment and will agree to delete these words. They must seriously think over the matter. We know we are fighting a losing game ; we have only to count up our losses, for gains we have had none ; but I feel strongly on this point, and in order to protect documents of historical or literary value, I only make this appeal to the Government to think carefully before negating this motion.

Mr. Amar Nath Dutt : Sir, I wish to say a few words to the Honourable the Law Member to whom, I am sure, the Gita is as much sacred as to any Hindu on this side. Probably being far away in the South, he does not know the woeful tales in Bengal when there was a recrudescence of anarchy in my unhappy province, that there were repressive measures and indiscriminate searches made in the houses of several respectable gentlemen in my province, and the main target in those days of these myrmidons of the bureaucracy was this very sacred book the Gita. Wherever the Gita was found, it was snatched away. Probably, my friend the Law Member could not hear all about our sufferings and the oppression and the tyranny that was perpetrated upon the people of Bengal in those days.

The Honourable Sir C. P. Ramaswami Aiyar : I was Secretary of the Calcutta Congress of 1917.

Mr. Amar Nath Dutt : Then I think he should know more of the tyrannical misdeeds of the Government of those days in Bengal, and if he can convince us that the Government of the present day have improved their methods and they have really become a little more moral, and a little more respectful of truth and less vindictive than they were in those days, we shall not have much quarrel with him. But, Sir, I think during the short tenure of his office as Law Member, my friend must have seen how this Government are constituted, of what material they are made. If the material that constitutes the Government which makes these laws is of this type, one can imagine what their subordinates in the provinces are likely to be. If these people here show some sympathy, their subordinates when they get back to their provinces undo what is done here, people are afraid of them more than Yama the god of death. No doubt, some of them have some sympathy for us. In any case, I must frankly say, Sir, that Honourable Members opposite have not shown any wisdom whatsoever in the passage of this Bill. I submit considering the history of the bureaucracy for the past in this land, considering how they have acted, I think my friend the Honourable the Law Member should advise his temporary colleagues.
(An Honourable Member : " Permanent colleagues.")—I wish they were

his permanent colleagues, but that permanency cannot last, because the Honourable Sir James Crerar might be appointed as Lieutenant-Governor of Bihar and Orissa, and Sir George Rainy as Governor of some other province.....

Mr. President : The Honourable Member should confine himself to the amendment before the House.

An Honourable Member : There is no Lieutenant-Governor for Bihar and Orissa. There is a Governor for that province now.

Mr. Amar Nath Dutt : Oh, I meant Governor, and not Lieutenant-Governor. What I was submitting was this, that the present Government are very ill-advised in launching a measure of this character. Really I wonder how, under the Law Membership of the present brilliant luminary of the Madras Bar, such an unhappy specimen of legislative draftsmanship as this could come before this House. I was really surprised, but I saw the Roman hand of some one else behind him, and probably he too was powerless to amend and alter the Bill as it ought to be. I hope, Sir, the Honourable the Law Member will see his way to persuade the Government to accept some of the amendments at least that have been moved, that he will be able to persuade the Honourable Member to accept some of them at least. With these words, I support the amendment.

The Honourable Sir C. P. Ramaswami Aiyar : Mr. President, I do not propose to follow the biographical excursions of my learned and respected friend, nor do I propose to deal more than is necessary with the subject matter of this particular amendment. The first remark that I wish to make is to invite the attention of Honourable Members to the minute of dissent penned by stalwart lovers of the freedom of the Press. It will be noticed that with reference to this particular clause, the Report of the Select Committee says this : " We have also added an Explanation which safeguards *bona fide* literary and historical writings ". That is the Report of the Select Committee. The dissenting minute, succinct and admirably terse as it is but comprehensive with regard to the points on which it concentrated itself, is significantly silent on this matter, and therefore I am entitled to assume that the Leader of the Opposition and those who were associated with him in writing this minute did not think that this particular clause was obnoxious to all those charges which are levelled against it. I will leave the matter at that. But let me analyse the clause. It will be noticed that the main criticism of the Honourable Member who spoke first was with reference to the expression tendency in clause (a). " Tendency " there has reference obviously to the expression " tend to incite to or encourage ". It is that expression which must be correlated with " tendency ". Now, what does the Explanation say ?

" No expression of approval or admiration made in a historical or literary work shall be deemed to be of the nature described in this sub-section unless it has the tendency described in clause (a). "

Surely, it cannot be said that a historical or literary work merely because it is historical or literary cannot have that tendency. What is sought to be done is to meet those words alone which have a tendency. As for the Gita, I have again to repeat what has already been stated that if Honourable Members will scrutinise (a) and (b), they will find there is absolutely no danger of any real classical book of that kind being used for the purpose which my friend fears. I do not wish to repeat what I have already said, but I submit that the fact that the dissenting minute does not refer to it shows that Honourable Members on the other side are as perfectly safe in their minds with regard to this matter as we are.

Mr. President : The question is :

“ That in the *Explanation* to sub-clause (1) of clause 4 the words ‘ unless it has the tendency described in clause (a) ’ be omitted.”

The motion was negatived.

Sardar Sant Singh : Sir, I am not moving this amendment.*

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : Sir, I do not want to move this amendment† as I want to withdraw it in favour of No. 51.

Sardar Sant Singh : Sir, as amendment No. 45 has been defeated, and this amendment No. 51 depends entirely upon the previous ones, I do not think there is any use in moving this amendment.‡

Mr. President : The question is :

“ That clause 4 stand part of the Bill.”

The Assembly divided :

AYES—51.

Abdul Qaiyum, Nawab Sir Sahibzada.	Fazal Haq Piracha, Shaikh.
Ahmed, Mr. K.	Fox, Mr. H. B.
Allah Baksh Khan Tiwana, Khan Bahadur Malik.	French, Mr. J. C.
Anwar-ul-Azim, Mr. Muhammad.	Graham, Sir Lancelot.
Azizuddin Ahmad Bilgrami, Qazi.	Heatcote, Mr. L. V.
Bajpai, Mr. R. S.	Hezlett, Mr. J.
Banerji, Mr. Rajnarayan.	Howell, Mr. E. B.
Crerar, The Honourable Sir James.	Ibrahim Ali Khan, Lt. Nawab Muhammad.
Dalal, Dr. B. D.	Ishwarsingji, Nawab Naharsingji.
DeSouza, Dr. F. X.	Jawahar Singh, Sardar Bahadur Sardar.
Dyer, Mr. J. F.	Knight, Mr. H. F.

“ That in the *Explanation* to sub-clause (1) of clause 4 for the words ‘ unless it has the tendency described in clause (a) ’ the words ‘ unless it amounts to incitement described in clause (a) or (b) ’ be substituted.”

“ That sub-clause (2) of clause 4 be omitted.”

“ That for sub-clause (2) of clause 4 the following be substituted :

(2) If the High Court finds the keeper of the press guilty in the manner hereinafter provided, the High Court shall declare such security or any portion thereof to be forfeited to His Majesty. The declaration made in respect of such press under section 4 of the Press and Registration of Books Act, 1867, thereupon shall be deemed to be annulled.”

(If this amendment fails.)

For sub-clause (2) of clause 4 the following be substituted :

(2) If the Magistrate finds the accused guilty he shall where the security has been deposited declare such security or any portion thereof to be forfeited to His Majesty and where no security has been deposited the accused may be punished with a fine which may extend to one thousand rupees. On conviction the declaration made in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled.”

(If this amendment also fails.)

For sub-clause (2) of clause 4 the following be substituted :

(2) After the expiry of ten days from the date of the service of the notice requiring the keeper of the press to show cause, if no cause is shown or the cause shown is in the opinion of the Local Government not sufficient the Local Government may declare such security or any portion thereof to be forfeited to His Majesty, or where no security has been deposited declare the declaration as annulled and may also declare all copies of such newspaper, book or other documents wherever found in British India to be forfeited to His Majesty.”

AYES—contd.

Lalchand, Captain Rao Bahadur.
 Lall, Mr. S.
 Leach, Mr. F. B.
 Montgomery, Mr. H.
 Moore, Mr. Arthur.
 Morgan, Mr. G.
 Mujumdar, Sardar G. N.
 Mukherjee, Rai Bahadur S. C.
 Pandit, Rao Bahadur S. R.
 Parsons, Mr. A. A. L.
 Rainy, The Honourable Sir George.
 Rajah, Rao Bahadur M. C.
 Rama Rao, Rai Bahadur U.
 Row, Mr. K. Sanjiva.
 Roy, Mr. S. N.

Sahi, Mr. Ram Prasad Narayan.
 Sams, Sir Hubert.
 Schuster, The Honourable Sir George.
 Scott, Mr. J. Ramsay.
 Shah Nawaz, Mian Muhammad.
 Sher Muhammad Khan (Gakhar, Captain).
 Shillidy, Mr. J. A.
 Studd, Mr. E.
 Tait, Mr. John.
 Talib Mehdi Khan, Nawab Major
 Malik.
 Todd, Mr. A. H. A.
 Yakub, Sir Muhammad.
 Young, Mr. G. M.
 Zulficar Ali Khan, Sir.

NOES—20.

Das, Mr. B.
 Dutt, Mr. Amar Nath.
 Gour, Sir Hari Singh.
 Harbans Singh Brar, Sirdar.
 Hari Raj Swarup, Lala.
 Lahiri Chaudhury, Mr. D. K.
 Lalchand Navalrai, Mr.
 Misra, Mr. B. N.
 Mitra, Mr. S. C.
 Murtaza Sahab Bahadur, Maulvi
 Sayyid.

Parma Nand, Bhai.
 Ranga Iyer, Mr. C. S.
 Sant Singh, Sardar.
 Sarda, Rai Sahib Harbilas.
 Sen, Mr. F. C.
 Sen, Pandit Satyendra Nath.
 Singh, Kumar Gupteshwar Prasad.
 Singh, Mr. Gaya Prasad.
 Thampan, Mr. K. P.
 Ziauddin Ahmad, Dr.

The motion was adopted.

Clause 4 was added to the Bill.

Mr. President : The question is that clause 5 do stand part of the Bill.

Sardar Sant Singh : I beg to move :

“ That in sub-clause (1) of clause 5 for the words ‘ not being less than one thousand or more than ten thousand rupees ’ the words ‘ not exceeding double the amount which the keeper of such press has been previously ordered to deposit ’ be substituted.”

Most of my Honourable friends do not realise the principle underlying this amendment. The point is this. In clause 3, the words as modified by the Select Committee are these :

“may be required by the Magistrate before whom the declaration is made, for reasons to be recorded in writing, to deposit with the Magistrate within ten days from the day on which the declaration is made, security to such an amount, not being more than one thousand rupees.....”

All the intervening words have been deleted by the Select Committee. Now, what is proposed in the present clause 5 is to demand security “ to such an amount, not being less than one thousand or more than ten thousand rupees ”; that is to say, discretion is given to the Magistrate to demand security, even 5 times, 6 times, or sometimes 20 times, the security demanded in the first instance. Supposing in the first instance the keeper of the press was called upon to deposit Rs. 500, and next time he is called upon to deposit Rs. 10,000. that amounts to 20 times, the original deposit required under clause 3. What I propose is that, instead of giving this discretion to the Magistrate, it should be restricted to double the amount originally deposited, the reason being that the guilt of the man has not been determined by any judicial authority; it is by executive action that it has been done, and therefore the discretion of the Magistrate should be restricted. With these few words, I move my amendment.

Mr. D. K. Lahiri Chaudhury : Sir, I rise to support the amendment moved by my Honourable friend. I have read the speech of the Honourable the Home Member who said that the Government were not anxious to have too drastic provisions and that they were anxious to provide for a course of action which should attain the ultimate purpose of the Bill without too much hardship or too much inconvenience. Is this the way in which the Honourable Member carries out his own statement made when he was moving that the Bill be referred to a Select Committee? If you wish to punish a man you can do so but in this case the punishment is so much heavier that it strikes one's conscience. With these words I support the motion of my friend Sardar Sant Singh.

Mr. S. C. Mitra : I support the motion of my friend Sardar Sant Singh. We think it our duty to put before you how the whole country will view these provisions. We know we are not in a majority. That should be no ground why we should not voice the feeling of the country as expressed in the Indian Press throughout the length and breadth of India. Sardarji suggests that there should not be a lower limit but that each time the deposit should be doubled. Government have so much faith in their Magistrates and yet they do not trust them and consider that there must be a minimum beyond which they cannot go. That shows the mentality that is working in the official brain. As regards the amount it is really very heavy. Rs. 10,000 really means that the paper will cease publication. I think it will be still possible for Government to accept the very reasonable amendment of my friend Sardar Sant Singh.

The Honourable Sir James Crerar : In considering this amendment I should ask Honourable Members to compare the provisions of the Bill as introduced and the Bill as it is now before them. They will see, as I have already explained, that the original Bill provided in sections 5 and 6 of that Bill for the circumstances in which it should be within the discretion of the Magistrate to forfeit both the security deposited and the press. In response to suggestions which were made, we have agreed to abrogate in this particular context provision for the forfeiture of the press, and we have simply maintained the maximum amount of Rs. 10,000 prescribed in the original Bill. I must remind the House once more that that is a maximum and I am glad to see that my Honourable friend, Sardar Sant Singh, in explaining the principles of his amendment, assumed that the Magistrate would ask for a small amount in the first instance. In other words, he assumes that the Magistrate would use a reasonable discretion. Let him assume equally that, in taking security under this provision subject to a maximum of Rs. 10,000, the Magistrate will in accordance with his own hypothesis equally exercise a reasonable discretion. For these reasons I must oppose the amendment.

Mr. President : The question is :

“That in sub-clause (1) of clause 5 for the words ‘not being less than one thousand or more than ten thousand rupees’ the words ‘not exceeding double the amount which the keeper of such press has been previously ordered to deposit’ be substituted.”

The motion was negatived.

Mr. Lalchand Navalrai : In view of the fate of the previous amendments and of the hopelessness of any amendment being carried, I do not move this* or any other amendment.

Mr. President : The question is that clause 5 stand part of the Bill. The motion was adopted.

Clause 5 was added to the Bill.

Mr. President : The question is that clause 6 stand part of the Bill.

Sardar Sant Singh : As this amendment depended entirely upon the previous amendments, I am not moving it†.

Mr. S. C. Mitra : Sir, I move :

“ That in sub-clause (1) of clause 6 for the words ‘ declare—

(a) the further security so deposited, or any portion thereof, and

(b) all copies of such newspaper, book or other document wherever found in British India

to be forfeited to His Majesty ’ the following be substituted :

‘ require to deposit with the magistrate within whose jurisdiction the press is situated a security in amount not more than five thousand rupees in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose ’ ”

My main object is that there should be no forfeiture of the press. It seems, the law has really no concern with the enormity of the crime. The man having a larger press suffers more. I think in justice there should be an amount prescribed as fine every time and not forfeiture, irrespective of the capacity of the man. Even for a small crime, a big press might be forfeited altogether. This clause offends against the principle of law that the punishment should be proportionate to the crime. Sir, I move.

The Honourable Sir James Crerar : I think that if the Honourable Member will examine his amendment in the context of the clause which he seeks to amend, he will agree with me that it is somewhat misconceived. The proposal to enable the Local Government to require the keeper of a press to deposit security appears to presume that no security had already been required. I think the Honourable Member, in an earlier part of his remarks, observed that he was opposed to the principle of confiscating presses. Now what would the Honourable Member’s amendment really effect ? The relevant words of the clause as they would stand would read :

“ If after security has been deposited the Local Government may require him to deposit with the Magistrate security of not more than Rs. 5,000. ”

Now if action is to be taken under this section at all, it is that, upon the appearance of offending matter, the security which has already been deposited should be forfeited. It would be quite meaningless, to say that after the deposit of such security—which may in accordance with the provisions of the previous clause be in excess of the amount suggested by the

*“ That in sub-clause (1) of clause 5, for the words ‘ ten thousand ’, the words ‘ four thousand ’ be substituted.”

†“ That in sub-clause (1) of clause 6, for all the words beginning with the words ‘ the Local Government may ’ and ending with the words ‘ to be forfeited to His Majesty ’ the following be substituted :

‘ the Local Government may proceed in the manner described in section 4, sub-section (2) ’.”

[Sir James Crerar.]

Honourable Member—it would be quite useless and meaningless to suggest that the only further action that the Government could take would be to demand a further security, without having already forfeited the security deposited. The Honourable gentleman made a great point of the amount of security demanded being reasonable proportionate to the merits of the case. But I must point out that the amount prescribed is the maximum, and the Magistrate and the Local Government have precisely that discretion which the Honourable Member urges ought to be provided for. I think that after this explanation the Honourable Member may perhaps be disposed not to press his amendment.

Mr. President : The question is :

“ That in sub-clause (1) of clause 6 for the words ‘ declare—

(a) the further security so deposited, or any portion thereof, and

(b) all copies of such newspaper, book or other document wherever found in British India

to be forfeited to His Majesty ’ the following be substituted :

‘ require to deposit with the magistrate within whose jurisdiction the press is situated a security in amount not more than five thousand rupees in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose ’.”

The motion was negatived.

Clause 6 was added to the Bill.

Mr. President : The question is that clause 7 be added to the Bill.

Mr. S. C. Mitra : Sir, I move :

“ That in sub-clause (1) of clause 7, after the word ‘ newspaper ’ occurring in the first line the words ‘ if he is not also a keeper of a printing press ’ be inserted.”

Sir, my point is that if a man is to start a newspaper, necessarily he must have a press also. By this clause it seems that he is required to deposit two securities ; and I think if the Government are not to be unduly oppressive on the new publishers of newspapers, they should accept my amendment. Sir, I move.

Mr. C. S. Ranga Iyer : Sir, this is a very important amendment ; and if only we had concentrated on a few amendments the previous day, I am sure we would have concentrated on this amendment. Sir, in Select Committee we urged upon the Government that it would be very improper to punish twice the same person, when the same person happens to be the keeper of the press as well as the publisher of a paper. In the old Press Act this thing was quite unknown, and in this Press Bill I think the Government need not unnecessarily have made it harsher by introducing this double security demanded from the keeper of the press, who generally also happens to be the publisher of a newspaper. Sir, if the Honourable the Home Member were to call for information as to how many newspapers there are in the country and who are the publishers of the newspapers and who are the keepers of presses, he will find that in the large majority of cases the keeper and the publisher happen to be one and the same person. I still urge upon the Government that they should concede this demand, this very legitimate demand that the Opposition have put forward, and I do hope they will not insist on and persist in doing what will ultimately be a double wrong to the keeper of a press when he also happens to be the publisher.

Dr. Ziauddin Ahmad : Sir, I had put down a motion to express the same object as this amendment seeks to do. My amendment is No. 78,* and I will not move my amendment but shall say what I have to say under this clause. Sir, I pointed out when we had the first discussion on this Bill, that this Bill violates five fundamental principles, and one of them was that one and the same person should not be punished twice for the commission of the same offence—once in the capacity of the owner of a printing press and a second time as a publisher. This is an entirely wrong principle, and I hope the Honourable the Home Member and the Honourable the Law Member will realize the difficulty and will agree to this very important amendment. Some Honourable Members suggest that the Government, under the intoxication of commanding a majority of the votes, will feel that we are talking nonsense, and whatever we may say, it will not have the slightest weight with them. Of course, they have their chance now ; but we also will have our chance in the next session.

Mr. D. K. Lahiri Chaudhury : Knowing the results of the amendments moved so far, I know, Mr. President, quite fully that there is no chance of getting any amendment passed by the House. Still I do protest.

An Honourable Member : Why are you then wasting the time of the House ?

Mr. D. K. Lahiri Chaudhury : Just wait and hear my arguments. The Honourable Member may think it mere waste of time, but there are occasions in human affairs when even a dumb mouth makes its futile protest. Sir, there are no human beings in the world who in any constitution of law can be punished for the same offence twice, at the same time in the same case, but it has been definitely laid down in this Bill that the printer of a press has to deposit a huge amount. Sir, it has been definitely pointed out by my Honourable friend that, even in Select Committee, the matter was discussed, and it has already been pointed out that in many cases the publisher and the pressman are the same. Under these circumstances I hope the Honourable Member will at least concede this point and will support this amendment.

The Honourable Sir James Crerar : Mr. President, I quite agree with my Honourable friend opposite, Mr. Ranga Iyer, that this is an important amendment. It is an amendment, Sir, to which Government have given careful consideration. It was considered very carefully in the Select Committee ; but I think a good deal of misapprehension exists as to what the precise position under the Bill is as compared with the original position. The original Act of 1910 prescribed that :

“ Every publisher of a newspaper who is required to make a declaration under section 5, etc., shall at the same time be required to deposit with the Magistrate a sum not less than Rs. 500 or more than Rs. 2,000 as the Magistrate may in each case think fit to require : Provided that if the person registered under the said Act as printer of newspapers is also registered as the keeper of the press where the newspaper is printed, the publisher shall not be required to deposit security so long as such registration is in force.”

Now, Sir, the second clause of the same section went on to make certain prescriptions as to the second deposit of security by the publisher of a newspaper. Honourable Members if they examine the provisions of that

“ That to clause 7, the following proviso be added :

‘ Provided that no security will be demanded if the publisher is the owner of the press from whom security has already been demanded under clause 4 ’.”

[Sir James Crerar.]

section, will see that the effect is that the exemption provided in the first sub-section of the section to which I have referred did not extend to established newspapers. Consequently the effects of that clause and the exemptions so far as they exist were only for new newspapers. Honourable Members must recollect in this connection also that under the provisions of the original Bill, which followed in this respect the provisions of the Act of 1910, the Magistrate was required to take the deposit of security except when for special reasons he thought fit to dispense with it. That provision has now been changed and it has a very important bearing upon the present case. Secondly, we have provided in an earlier clause of the Bill for a provision that, if at the end of three months, the keeper of a press or publisher has not been responsible for the issue of any offending matter, his deposit is returned and he attains the position of the keeper of an established press or the publisher of an established newspaper. Now, I suggest to the House that this makes a very important change in the position. We have indeed taken great pains to provide, as far as possible, for the difficulties to which the Honourable Member has referred, and I must point out now that, if the amendment were accepted, the results would be as follows. It would lay itself open to a very plain and palpable means of evasion, because all that would be necessary for a publisher, who intended to publish objectionable matter and who wished to avoid the pains and penalties which the Bill would otherwise entail upon him, would be to proceed as follows. He could arrange with the keeper of some press which has already made a declaration and deposited security to register himself also as publisher. We know very well that it is a common practice with the kind of newspapers and presses which we wish to restrain.—I am glad to say they are a very limited number—to put up fictitious persons as publishers or keepers. The dummy editor and the dummy keeper are perfectly familiar to anybody who has studied this question. That is a means by which the provisions of this clause can be completely nullified, and in view of our experience of dummy editors and the like, there can be no doubt whatever that that expedient would be resorted to. Not only would this amendment permit of that easy and palpable means of evasion, but it would quite clearly and positively encourage it; and I think there is a very good ground of principle for not permitting such a course to be made possible. It is important—and I am sure my Honourable friend Mr. Ranga Iyer will agree with me—that the registration of the publisher of a newspaper should be properly effected. To be a publisher of a newspaper is a very responsible office. The law provides that he shall be rightly and correctly registered and for various other provisions of the law it is necessary that that registration should be a good and valid registration. Consequently I think we should be acting entirely wrongly if we adopted an amendment which invades very seriously a plain and reasonable proposition. The man who undertakes to be the publisher of a newspaper should, in accordance with the law of the land which is in existence independently of this Bill, carry out a true and valid registration.

To sum up, therefore, my objections to this amendment are three. Firstly, it infringes very seriously the purpose and the plain necessity and propriety of having a valid and correct registration of the publisher of a newspaper. Secondly, it provides a plain and palpable means of evasion

which, having regard to the kind of newspapers which are mostly likely to come within the danger of this Bill, could not be allowed, as it would provide an expedient to which the controllers of such newspapers would certainly resort. Thirdly, I have already stated the position and explained that the effect of this clause, read with the other relevant clauses of the Bill, is to provide a very large measure of remedy for the particular trouble which is apprehended by the Honourable Members who support this amendment.

For these reasons I am unable—though I much regret it—to accept this amendment.

Mr. President : The question is.

“ That in sub-clause (1) of clause 7 after the word ‘ newspapers ’ occurring in the first line, the words ‘ if he is not also a keeper of a printing press ’ be inserted.”

The motion was negatived.

Mr. S. C. Mitra : Sir, I beg to move :

“ That in sub-clause (1) of clause 7 for the words ‘ one thousand ’ the words ‘ five hundred ’ be substituted.”

I think that after all our previous amendments have failed this amendment now stands even on a stronger basis because, when starting a newspaper, the owner of the press shall have to deposit Rs. 1,000, and it may be possible for Government now at least to diminish the amount so far as the publisher of the newspaper is concerned. As a matter of fact, if anybody has to deposit Rs. 2,000 on two accounts, once as owner of the press and again as publisher of a newspaper, it will be really killing the future enterprise of starting any newspaper in India.

I should just like to say one word as regards the point raised by my friend Kunwar Ismail Ali Khan about the waste of time. He may think so, but I think, Sir, it lies with you to consider whether it is really any waste of time. If he reads the constitutions of other parts of the civilised world, he will find that, after the election, it is always found that one party is in a majority and the other is in a permanent minority ; and the duty of the constitutional opposition is always to put before the House and the country, Sir, their view point. It is not so much that we win a division, but we have to represent truly our constituencies, and as such you will allow me to propose all my amendments if I think it to be in the best interests of the country. I find that the Honourable gentleman is not in the House now, but I do not think it is a waste of time at all and I consider it my duty to press all the points that I think should be raised in the best interests of the country.

The Honourable Sir James Crerar : Sir, I must point out that this amendment, except that it refers to a newspaper instead of to a press, refers to circumstances which are practically identical with those which we have already considered in sub-clause (1) of clause 3 ; and I do not therefore propose to recapitulate the arguments used on that occasion.

Mr. President : The question is :

“ That in sub-clause (1) of clause 7 for the words ‘ one thousand ’ the words ‘ five hundred ’ be substituted.”

The motion was negatived.

Mr. S. C. Mitra : Sir, I beg to move :

“ That in the proviso to sub-clause (1) of clause 7 for the words ‘ three thousand ’ the words ‘ one thousand ’ be substituted.”

[Mr. S. C. Mitra.]

I know my argument will be more or less the same as I put forward on the last motion, but I fear the Honourable the Home Member could not catch my point. I say that once you have by the previous clauses the right of full demand of Rs. 1,000, the present clause stands on a weaker foundation. It is an additional demand for a newspaper publisher. The publisher of a newspaper shall have to pay as the Government demand under this clause. It is different now because there will already be a deposit with the Government by the owner of the press. So in the case of the publisher they should consider whether the amount may be diminished at least to a certain extent.

Sir, I move.

The Honourable Sir James Crerar : I have nothing to add to what I have said on the previous amendment.

Mr. President : The question is :

“ That in the proviso to sub-clause (1) of clause 7 for the words ‘ three thousand ’ the words ‘ one thousand ’ be substituted.”

The motion was negatived.

Mr. President : The question is that clause 7 stand part of the Bill.

The motion was adopted.

Clause 7 was added to the Bill.

Mr. President : The question is that clause 8 stand part of the Bill.

Sir Lamoelet Graham (Secretary, Legislative Department) : I have a formal amendment to move under clause 8 to the following effect :

“ That in sub-clause (1) of clause 8 for the words ‘ deposited as required by ’, the words ‘ ordered to be deposited under ’ be substituted.”

The reason for this formal amendment is the amendment of sub-clause (1) of clause 7, by which 10 days’ grace was provided in the case of a new newspaper. A similar amendment, Honourable Members will remember, was made in sub-clause (3) of clause 3 in respect of new presses, and in pursuance of that amendment, an amendment was made in clause 4 in the language which I have now proposed to be used in clause 8. It is needless to say that the amendment which I am now proposing ought to have been included as a consequential amendment in the Report of the Select Committee. It was actually noted for inclusion, but by some oversight it was omitted. Honourable Members will see that the amendment is necessary because you now have two classes of presses. You have presses which have deposited security, and you have presses which have been ordered to deposit their security but have not yet deposited it. It is, therefore, incorrect in clause 8 to deal only with persons whose security has been deposited. You have also to deal with cases where deposits have been ordered to be made but the deposit has not been made. That is the purpose of the amendment.

The motion was adopted.

Mr. President : The question is that clause 8, as amended, stand part of the Bill.

The motion was adopted.

Clause 8, as amended, was added to the Bill.

Mr. President : The question is that clause 9 stand part of the Bill.

Sardar Sant Singh : Sir, I beg to move :

“ That in sub-clause (1) of clause 9 the words ‘ or any other newspaper which is the same in substance as the said newspaper ’ be omitted.”

Sir, my reason in moving this amendment is that this amendment aims at protecting the indiscriminate exercise of discretion on the part of the Magistrates. These words “ which is the same in substance as the said newspaper ” are so vague and so general that almost every newspaper can be covered by this phrase. Now suppose a particular paper has been penalised. A person comes forward with a declaration in the name of a newspaper ; this person is different, the press is different and the name of the newspaper is different from the one penalised. Thus everything is changed. But how on earth can any Magistrate say that in substance it is the same unless there is something in the mind of the Magistrate which nobody can fathom ? This will give a handle to the Magistrate to refuse declaration. Therefore, my submission is that we should keep the dignity of law and use words which are capable of some meaning. I know that reason does not hold good in the discussion of this measure. I know that in carrying forward all their wishes, the executive are bent upon using any language by which they can kill any person they like. By person I do not mean actual physical person, but his trade and profession. Therefore, I submit that there is something like judicial honesty which is at stake. What is the meaning of these words, “ which is the same in substance as the said newspaper ” ? Unless the power of reading the minds of others is given to human beings, this power will be exercised in the most tyrannous manner possible. Therefore my submission is that there should be some decency left in the Bill.

The Honourable Sir James Orerar : I think it will be apparent to the House, Mr. President, that the particular words objected to in this amendment have been inserted and were indeed contained in the Act of 1910 in order to provide against a very simple evasion. If these words or words with this purport were not inserted, it is possible for the publisher of a newspaper to make some purely formal changes in the title, formal and general get up of his newspaper, but continuing nevertheless on precisely the same old lines and yet plead that he was not the publisher of a newspaper which had been found to offend.....

Sardar Sant Singh : May I know who will be the judge of whether it is in substance the same old paper ?

The Honourable Sir James Orerar : In the first instance it will be the Magistrate who will be the judge, and he will probably be most familiar with the antecedents of the newspaper, and therefore I suggest that he is the proper person to judge. I maintain therefore that the substance of this phrase in the clause is quite essential. I do not myself see any objection to the particular phraseology employed, which has passed the scrutiny of several generations of draftsmen ; but if it is merely a question of verbal amendment and not a question of substance, I regret that the Honourable Member has not himself suggested some feasible alternative. If it is on the question of substance that he stands, then I also must stand on the question of substance.

Mr. President : The question is :

“ That in sub-clause (1) of clause 9 the words ‘ or any other newspaper which is the same in substance as the said newspaper ’ be omitted.”

The motion was negatived.

Sardar Sant Singh : Sir, I beg to move....

The Honourable Sir James Crerar : May I point out to the Honourable gentleman before he moves this amendment* that, contrary to what has been imputed to the Government Benches, I have accepted the Honourable Member's amendment already and incorporated it in the Bill.

Mr. President : The question is that clause 9 stand part of the Bill.

The motion was adopted.

Clause 9 was added to the Bill.

Clauses 10 to 17 were added to the Bill.

Mr. President : The question is that clause 18 stand part of the Bill.

Dr. Ziauddin Ahmad : Sir, I beg to move :

“ That in sub-clause (1) of clause 18 after the word ‘ Whoever ’ the word ‘ knowingly ’ be inserted.”

My object in moving this is to protect illiterate newspaper boys who will be hit very hard by this clause. They are the people who sell and they do not know what they are selling, and it is rather hard upon them if they are to be punished without their having knowingly committed any offence. With these words I move my amendment.

Mr. D. K. Lahiri Chaudhury : I rise to support this amendment, Sir. My reason is this : for instance these little boys who sell papers do not know the law. Of course ignorance of law is no excuse, but still in the case of these little boys and illiterate hawkers, they should not be punished unnecessarily. I support the amendment.

Sardar Sant Singh : Sir, I do not agree with the word “ knowingly ” being placed before the word “ makes ” ; but I do agree with the principle underlying this Bill (Laughter from the Government Benches.)— I mean the principle underlying this amendment. We can see that very wide powers are given and a criminal offence created by this clause. Suppose for the sake of argument that an unauthorised newspaper is published and sent to me by post and it is lying on my table and there the clients have access to it. I am an offender under this Act because I publicly exhibit a paper without even knowing whether it is published as an unauthorised or authorised publication. Under the circumstances you will be punishing a man not for committing an offence, but for not being careful enough to know that an offence has been committed by another person without his knowledge and he happened to keep the incriminating paper on his table.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Ignorance of law is no excuse.

*“ That in sub-clause (1) of clause 9, after the words ‘ in securities of the Government of India ’ the words ‘ as the person making the declaration may choose ’, be added”

Sardar Sant Singh : But ignorance of fact is an excuse. This is a mistake of fact, and if you have ever cared to study the Penal Code, you will find the distinction there between a mistake of fact and a mistake of law. There are two phrases used in the criminal law. This is a mistake of fact and not a mistake of law, and as such a mistake of fact is always excusable. This amendment proposes that this mistake of fact should be excused and not made punishable.

Mr. S. G. Jog (Berar Representative) : Sir, we have practically reached the middle stage. (Honourable Members : "The last stage.") of the battle, or rather the battle of words that was begun six months ago. Fortunately there was a truce for some time, but in this session the battle has been reopened again. We have reached the middle stage now—and probably we will reach the end very soon—and it is a fore-gone conclusion on which side the victory will lie. But how far the victory would be ugly.....

Mr. President : The Honourable Member should restrict himself to the amendment that is before the House.

Mr. S. G. Jog : I may bring it to the notice of the House, and especially the occupants of the Treasury Benches, that in the criminal law there is a principle and a very important principle which is known as the *mens rea*. This expression, I think, must be familiar even to the Law Member. (Laughter.) The words "*mens rea*" mean criminal intention. In any act, in any offence, whatever that may be, there must be that criminal intention in the mind of that man. Unless that criminal intention is there, or unless that criminal intention is established in a proper court of law, no man can be charged with any offence.

Mr. K. Ahmed : What is the meaning of "knowingly" ?

Mr. S. G. Jog : Knowingly means one who does an act knowingly.

Mr. President : Order, order : please continue your observations.

Mr. S. G. Jog : Very well, Sir. This is the first elementary principle of law, and I think an attempt has made to give a go-by to this elementary principle of law in this way. I will give the House a typical instance. Take the grocers' shops. Sometimes these papers are purchased as waste paper in bundles. You buy some article, the grocer packs it up in one of those authorised or unauthorised papers, and hands over the article to you. Would that grocer come under this law or not ? As the clause stands, I am afraid the grocer will certainly come under this, and he will be punishable. If this law is made, then you will punish innocent people. I do not know what to call this law, whether to call it a law or a lawless law. I submit that the amendment proposed is absolutely necessary, and I think the Mover of the Bill will be kind enough to accept it.

Mr. S. C. Mitra : Sir, I support this motion. I did not give notice of this amendment because I thought that it was implied in the clause itself that, when there is any such sale or distribution, it necessarily connotes that the man is punishable only when the criminal intention is proved against him, but when the question has been raised, I find that Government are not in a mood to accept it. I think they now intend to punish anybody and everybody who may sell or distribute or who may happen to have a copy of any of these unauthorised publica-

[Mr. S. C. Mitra.]

tions. So if the Government oppose the amendment, I think it is necessary to make it clear that the criminal intention, as in all other criminal cases, should be proved against the man before he is found guilty under this section. Sir, with these words, I support my friend.

The Honourable Sir C. P. Ramaswami Aiyar : Sir, my Honourable and learned friend opposite said that even the Law Member must be aware of what he termed "*mens ree*". I take it that what he really meant was "*mens rea*", which is a criminal intention. I have the good fortune or misfortune of knowing what *mens rea* indicates in law, but without wasting more time on the discussion whether the Law Member is aware of this term or not, I shall go to the substance of the matter at once. It will be remembered that these provisions relate to unauthorised news-sheets or newspapers, and the mischief of these news-sheets or newspapers lies in the fact that they are circulated largely and they gain a certain amount of hold upon people, and it is therefore necessary to deal with that evil. Now, how is that evil to be dealt with? In the first place, some remarks were made with regard to exhibiting or keeping. If Honourable Members will look carefully into clause 18, they will find that it is stated there—"Whoever makes, sells, distributes, publishes or publicly exhibits or keeps for sale.....", the disjunctive construction is the one which is indicated by the way that sentence runs, so that those Honourable Members who are afraid that their clients may look at some papers on their tables and that on account of that information percolating to the police they may be arrested, need not be under any such apprehension.....

Sardar Sant Singh : May I draw the attention of the Honourable the Law Member to the word "publishes"?

The Honourable Sir C. P. Ramaswami Aiyar : "Whoever makes, sells, distributes, publishes or publicly exhibits.....". A lawyer keeping a pamphlet on the table does not publish it, and it is well known what publication either in the law of libel or otherwise connotes, and I take it that a lawyer keeping that pamphlet on his table does not publish it. That apart, the whole question is this. It will be noticed that this is only a clause which defines an offence. It does not mean that a news-boy who runs about is necessarily to be punished. It means that a prosecution is permissible in cases where it is called for; it will not be called for in such cases. But I will put the other side of the case for the moment. Supposing a person having been responsible for these pamphlets simply hands them over to a hundred different people and asks them to go round the city to make them public, what is the remedy? If Honourable Members will realise that, they will see that the object of this section is only to make a thing punishable and not to make it obligatory on Government to start a prosecution.

Mr. President : The question is :

"That in sub-clause (1) of clause 18 after the word 'Whoever' the word 'knowingly' be inserted."

The motion was negatived.

Sardar Sant Singh : Sir, I beg to move :

"That in sub-clause (2) of clause 18 for the word 'non-bailable', the word 'bailable' be substituted."

The Honourable Sir James Crerar : The Honourable Member will perhaps pardon me if I interrupt him. It might perhaps save the time of the House if I point out that this is another occasion on which I have accepted the amendment proposed by the Honourable Member, and it has been incorporated in the Bill before the House. I am afraid he has not gone through the Bill very carefully. The amendment has already been made in the Bill.

Sardar Sant Singh : Have you already incorporated it in the Bill ?

The Honourable Sir James Crerar : Yes, Sir.

Sardar Sant Singh : Thank you.

Clause 18 was added to the Bill.

Clauses 19 to 22 were added to the Bill.

Mr. President : The question is that clause 23 stand part of the Bill.

Sardar Sant Singh : Sir, I do not wish to move this* amendment.

Mr. B. Das : Sir, I beg to move the following amendment :

“ That for clause 23 the following be substituted :

‘ 23. Any person against whom an order calling upon him to give security has been made and any person interested in the press which is ordered to be forfeited may appeal to the High Court for the local area in which such order was made to set aside such order ’.”

Sir, this seems to have been drafted in a much better manner than the drafting in the Bill. One thing that we want to safeguard is that if any press is encumbered, then the person to whom the property is mortgaged, should be allowed to appear and appeal to the High Court for recovery of his dues. For that reason I move this amendment, and I hope the Honourable the Law Member will accept it.

The Honourable Sir C. P. Ramaswami Aiyar : The Honourable Member is not surely pressing this, because he will realise if he scrutinises it, that if this amendment be carried, there would be no recourse to the High Court if there was a forfeiture of security.

Mr. President : The question is :

“ That for clause 23 the following be substituted :

‘ 23. Any person against whom an order calling upon him to give security has been made and any person interested in the press which is ordered to be forfeited may appeal to the High Court for the local area in which such order was made to set aside such order ’.”

The motion was negatived.

Mr. S. C. Mitra : I am afraid my amendment No. 95 is barred by the previous motion, but if you will allow me to move it, I shall do so.

Mr. President : The Honourable Member may move it. The question will be considered if a point of order is raised.

Mr. S. C. Mitra : I beg to move :

“ That in sub-clause (1) of clause 23 for the word ‘ sub-section ’ occurring in line three the words ‘ sub-sections (1) and ’ be substituted.”

My amendment really gives power to the High Court to revise any order that is passed by the District Magistrate. There is some provision in the

“ That Clause 23 be omitted.” :

[Mr. S. C. Mitra.]

earlier clauses that the Magistrate, while giving notice for security, should also put forth his arguments. It may not be a judicial trial, but if my amendment is accepted, it will give the High Court power of revision to go through the order. The Magistrate may not be bound to give reasons, but if any reasons are given, then the High Court will be in a position to see if there are adequate grounds for passing such orders. Sir, I move.

The Honourable Sir James Orerar : The Honourable Member was commendably brief in moving his amendment, and he asked the House to approve of the proposition that an order made under sub-clause (1) of clause 3 should be made subject to an application to the High Court. When we were debating clause 3 of the Bill, that particular question was exhaustively scrutinised, and I shall imitate the Honourable the Mover's brevity by recalling very shortly to the House what the contentions then advanced were.

It was pointed out that a Magistrate proceeding under sub-clause (1) of clause 3 naturally was not acting upon matter which offends under clause 4 of the Bill. We have provided remedies against any inconvenience or hardship that might be occasioned, firstly, by requiring the Magistrate to record his reasons for passing an order of that kind, which makes it liable to the scrutiny of the Local Government, and secondly, by the other proviso to that clause, more particularly the provision that if the keeper of the new press has not offended within three months of the declaration, his deposit will be automatically returned. In short, the general grounds of my opposition to the amendment are those which have already been indicated. If the keeper of the press fails and his security is forfeited, then at that stage recourse to the High Court becomes both admissible and practicable. I oppose the amendment.

Mr. President : The question is :

“ That in sub-clause (1) of clause 23 for the word ‘ sub-section ’ occurring in line three the words ‘ sub-sections (1) and ’ be substituted.”

The motion was negatived.

Mr. S. C. Sen : I beg to move :

“ That in sub-clause (1) of clause 23, after the words ‘ the High Court shall decide ’ the following be inserted :

‘ whether the notice for deposit of security or of forfeiture was given in strict conformity to the provisions of this Act and ’.”

Sir, both under the Act of 1910 and this Bill, certain provisions have been made regarding notice calling for security and of forfeiture. In both the enactments, it is provided that a description of the words complained of, a description of the figures complained of, etc., should be given in the notice. Lord Sinha, then he was Mr. Sinha, in supporting the Bill of 1910, considered this provision as one of the most valuable safeguards against official *zoolum*. In this House also, if I remember correctly, the Honourable the Law Member considered that it was obligatory on the Local Government to describe the words, etc., and he also regarded this provision as one of the safeguards. How is this safeguard to be provided for ? Supposing the Local Governments, as they have hitherto done, do not describe in the notice the words complained of, what would happen then ? No provision has been made to meet such a contingency. As a

matter of fact, Sir Lawrence Jenkins in the well known *Comrade* case held that having regard to the language of the Act, his hands were tied and he could not do anything in the matter, that he could not enter into the question whether the notice was good, bad or indifferent. Let me quote his words :

“ The notification, therefore, appears to me to be defective in a material particular, and but for section 22 of this Act, it would, in my opinion, be our duty to hold that there had been no legal forfeiture.”

That was his opinion. He felt constrained to find that, although the notice was bad, although the notice was defective and did not comply with the express provisions of the Act,—which the late Lord Sinha considered to be a safeguard—he could not do anything in the matter. I want to provide against that. It may be said that you should leave the matter to the discretion of the Local Government, that you should not consider that the Local Government are so bad that they would not frame their notice in the manner provided in the Act. But from the report of the *Comrade* case you will find that not only the notice was bad but the Advocate General of Bengal was instructed to take this point and to oust the jurisdiction of the High Court to consider whether the notice was good, bad or indifferent. Again, if it be held that the notification was invalid, there would be in fact no forfeiture. Moreover the High Court has no jurisdiction to inquire into the validity of the forfeiture for two reasons. First, it is barred under the corresponding section, to clause 30, and secondly under section 17, under which this application is made, the High Court is given power to set aside an order of forfeiture on the one narrow ground, namely, that the newspaper or book or other document in respect of which an order was made did not contain the words, etc. Clause 30 and again clause 23 which we are now considering, show that the matter which the High Court should take into cognisance is that the High Court shall decide if the newspaper or other document in respect of which an order was made did or did not contain any words, etc. The only function of the High Court in this case would be to consider this particular question and no others. Again under clause 25 :

“ If it appears to the Special Bench on an application under sub-clause (1) of section 23 that the words, signs or visible representations contained in the newspaper, book or other document in respect of which the order in question was made were not of the nature described in section 4, sub-section (1), the Special Bench shall set aside the order.”

The only question which the High Court can decide is the question whether the articles complained of or the book complained of contained these words or not. If so, the very salutary provision which was put into the Act of 1910 and which Mr. Sinha considered to be of vital importance and a safeguard to the accused and which the Law Member here also considered to be necessary cannot be gone into by the High Court having regard to the provisions of the Bill. Therefore I move my amendment. I have also similar amendments to clauses 25 and 30. These are amendments standing in my name, Nos. 103 and 114.† Moreover having regard

†“ That in sub-clause (1) of clause 25 after the words and figures ‘ of section 23 that ’, the following be inserted :

‘ whether the notice for deposit of security or of forfeiture was given in strict conformity to the provisions of this Act and ’.”

“ That in clause 30, after the words ‘ has taken place ’, the following be inserted :
‘ provided the notice of forfeiture was made in strict conformity to the provisions of this Act ’.”

[Mr. S. C. Sen.]

to the express provision made in the Bill and to the declaration made by the Honourable the Home Member, it would not look nice for the Government now to contend that, although these words are necessary, that notice should be given in accordance with the provisions of the Act, still we will not allow the High Court to enter into this question. If the Government are really sincere, they ought not to object to the addition of these words which I have suggested in my amendment.

Sardar Sant Singh : I rise to support this amendment. Its necessity has become greater on account of the defeat of all the amendments which attempted to judicialise the proceedings. The executive are required to comply with the forms of procedure at any rate as they themselves propose. If they do not want to accept this reasonable amendment, it means that the executive do not want to comply with the provisions of this Act. A case like this may arise. Without notice or a single word a press is forfeited and taken away. There is no remedy. The person who has suffered will not be given an opportunity to understand what were the words or expressions which he used which were considered objectionable by the executive. Of course he will have a right to go to the High Court. The High Court will not look into the question whether the notice was good, bad or indifferent. The High Court says, "Here is a newspaper. If the executive have not chosen to point out the words, signs or visible representations which are objectionable in their view, then we will not look into it". The Public Prosecutor will get up and say "I press the point. Page 5 is objectionable and the forfeiture was justified". The High Court says, "No, the words on page 5 are not objectionable". Then the Public Prosecutor will say, "There are some more objectionable passages in other pages". So, I say, Sir, that this will make the Act very loose and the executive will act in a high-handed manner. I therefore strongly urge that this portion should be included in the clause. I support this amendment.

Mr. Amar Nath Dutt : I think my friend the Law Member will not deny that it is an elementary principle of law that the accused should know the charge against him.

5 P.M.

In civil cases also there is the provision that a plaintiff should disclose a cause of action so that the defendant knows what the case is against him. And the plaintiff is also given a chance of knowing what the defendant has to say against the plaintiff's case. If that is so in a civil case, it is all the more necessary in a criminal case, which deals with the life and liberty of the people. That being so, the man who is going to be fined under the provisions of this Bill ought to know from the very beginning the facts upon which the executive bases its charge. Those who have experience of the subordinate Magistracy know too well how often notices under sections 107, 108 and 110 have been declared invalid by superior courts. I believe in many cases invalid notices are intentionally issued. I do not say that Government keep in service Magistrates who do not know the provisions of the Criminal Procedure Code. The only other conclusion to which we will be entitled to come to is that Magistrates intentionally prostitute their office and do not make mention of the real facts under which these men are hauled up. I think the Honourable the Home Member held the office of a District Judge for some time and I think he had on several occasions to set aside the order of the subordinate Magistracy and I trust the Honourable the Law Member had experience of the fact that notices

were often given which were not according to law, and the party aggrieved had not the means to know what the real charges against them were, and, Sir, as my Honourable friend, Sardar Sant Singh, has been pleased to observe, they can, without giving proper notice, without going to the High Court, simply say, "The offensive article is found on page 1 or 2 or 3 or 4 or 5 and so on". That being so, if the Government really do not want to invest Magistrates with further powers of oppression and tyranny, they ought to have safeguards at least for those proprietors of presses who are entitled to ask that, "At least let us know what you complain of, so that we may prove beyond the shadow of a doubt that we are not guilty". If your intention is that everything is to be done by executive order, of course we have nothing to say; but if you are really sincere, after our having pointed out to you these facts, you should not object to the motion.

Mr. S. G. Jog : Sir, if one can see through the provisions of the Bill, he will see that it is a double-object Bill. With one object an attempt is made to control the Press; and another hidden object is to control the powers of the High Court. The fact is that the executive authorities now somehow or other are losing confidence in these High Courts, and they think that if they must do the job in their own way, they must curtail and control the powers of the High Court by such legislative measures. As regards the question of notices—how the processes are issued, how they are manipulated in the offices, through whose hands they pass, and what sorts of irregularities are done, that is a matter which is within the common knowledge of those who have to deal with courts. There are a number of irregularities committed in the issue of notices, in the service of notices; and if an adverse order is passed which goes against the interests of the printer or publisher, what is he to do? Now after the chapter of the executive processes is finished, we enter upon the powers of the High Court which were described by the Honourable the Law Member the other day. Now the High Courts have to exercise their powers; but this Bill says, "No, you shall not look into the whole matter carefully but your powers are restricted; you must only decide this much and no further; you are not to go behind all this". I say, Sir, what propriety is there for curtailing the powers of the High Court in this way? If an irregularity is done, does the executive authority mean that the High Court should be powerless in setting aside orders which have not been passed in conformity with the provisions of law, and that there should be no remedy for that, and that even fetters should be put on the powers of the High Court? Sir, this is an attempt to encroach upon the ordinary powers of the High Courts, and I submit that the amendment moved should be accepted.

The Honourable Sir C. P. Ramaswami Aiyar : Sir, let us analyse clause 3, sub-clause (3) and clause 7, sub-clause (3), which are the two clauses dealt with in section 23. Clause 3, sub-clause (3) says that certain persons should be given notice by the Local Government stating or describing such words, signs or visible representations and so forth. Therefore a notice has first of all to go to the keeper of the press, under clause 3, sub-clause (3), indicating clearly what the words, signs and visible representations are which are supposed to be obnoxious to the law. Under clause 7, sub-clause (3), there are practically identical provisions. Then we come to clause 23. It is to the keeper of the press who has been ordered to deposit security under sub-section (3) of section 3;

[Sir C. P. Ramaswami Aiyar.]

that is, it is to the man to whom notice has been given, as indicated already, in which notice are contained those words and visible representations, etc., that it applies. Supposing it applies, then the High Court has to consider and decide if the newspaper, book or other document in respect of which the order was made did offend—it is not to wander at large from page to page, as was stated. A specific order should have been made, which is complained of, and that order has to describe, under clause 3 and clause 7, the particular signs or visible representations, and the High Court has to decide if that order was within the law or not. If, on the other hand, there have been such fundamental irregularities, the order would not be within the law and would not have been held to have been passed under the relevant clause as the High Court would say, "There is no such word or sign or representation as you are supposed to have uttered, and there is therefore no order which you have infringed, and you are acquitted". That I submit is the answer to the question put.

Mr. Amar Nath Dutt : Then what is your objection to have it put down more clearly ?

Mr. President : The question is :

"That in sub-clause (1) of clause 23, after the words 'the High Court shall decide' the following be inserted :

'whether the notice for deposit of security or of forfeiture was given in strict conformity to the provisions of this Act and '."

The motion was negatived.

Clause 23 was added to the Bill.

Clause 24 was added to the Bill.

Mr. President : The question is that clause 25 stand part of the Bill.

Mr. S. C. Mitra : Sir, I move :

"That in sub-clause (f) of clause 25, for the words 'the order shall stand' the words 'the opinion of the Chief or Senior-most Judge shall prevail' be substituted."

The clause at present runs thus :

"(f) Where there is no such majority which concurs in setting aside the order in question, the order shall stand."

Now the ordinary procedure in High Courts in cases where there is a difference of opinion and there is equality of opinion on both sides, is that the opinion of the Chief or senior-most Judge prevails. My argument is that where the senior Judge of the High Court differs from his brother as regards the guilt of a person, the rule is that the accused gets the benefit of doubt ; I do not see why the general and ordinary procedure should not be followed in these cases, where it is supposed that a High Court Judge is in the position of holding that the person concerned is not guilty ; and I do not see why the opinion of the Chief or senior-most Judge should not prevail in such cases also.

The Honourable Sir James Orerar : Sir, I think the Honourable Member's amendment has been moved under some misapprehension. All the High Courts and Chief Courts of India and nearly all the Judicial Commissioners' Courts have got at least three Judges, and consequently the position in which there are only two Judges to consider an application could not arise except I think in the one case of the Court of the

Judicial Commissioner of the North West Frontier Province. Therefore the provision he proposes would in any case have an exceedingly limited application. On the merits, my position is this. Even supposing that such a position arises, it would be reasonable that the matter should be left in the *status quo* in which the application came to the court. Firstly, there would be the opinion of the Magistrate, secondly, of the Local Government and thirdly, at least one of the Judges supporting their views. In all these circumstances I think it would be reasonable that in the few number of cases in which this contingency might arise, the *status quo* should prevail, just as when the opinion in this House is equally divided, you in the exercise of your Presidential functions maintain the *status quo*.

Mr. President : The question is :

“ That in sub-clause (4) of clause 25, for the words ‘ the order shall stand ’ the words ‘ the opinion of the Chief or Senior-most Judge shall prevail ’ be substituted.”

The motion was negatived.

Sardar Sant Singh : Sir I beg to move :

“ That in sub-clause (4) of clause 25, for the word ‘ stand ’ the words ‘ be set aside ’ be substituted.”

In moving this amendment, I have in mind the reply which the Honourable the Home Member has just given to the previous amendment which has been lost. The reason given on the other side is that the opinion of the Judge is corroborated by the opinion of the Local Government or of the Magistrate, as the case may be, and hence there is a majority on the other side and one Judge's opinion should not prevail. My submission is that here is another assault on criminal jurisprudence. The rule of law in the administration of criminal justice is that the benefit of the doubt goes to the accused and not to the prosecution. The benefit of having at least one Judge on the side of the newspaper or the keeper of the press is really a benefit over which the executive should submit their judgment to the judgment of the one Judge. If the doubt arises and if the publisher or keeper can carry with him one Judge of the High Court, he is certainly entitled to hold that his words were not of that objectionable nature which the executive say they were. Therefore my submission is that, taking into consideration the principle of giving the benefit of doubt to the accused, it is absolutely essential that the judgment of even the one Judge should carry the day, and it should not be in favour of the Local Government.

The Honourable Sir James Orerar : Sir, I must oppose this amendment on the same grounds as the previous one.

The motion was negatived.

Clause 25 was added to the Bill.

Clauses 26 to 29 were added to the Bill.

Mr. President : The question is that clause 30 stand part of the Bill.

Mr. B. Das : Sir, I beg to move :

“ That in clause 30, after the words ‘ as against all persons ’ the words ‘ other than *bona fide* encumbrancers ’ be inserted.”

[Mr. B. Das.]

Sir, when a property is mortgaged, the mortgagee has the right over that property under the law. I do not know very much of law, but I think this is common sense. If that is so, then I want to safeguard the right of *bona fide* encumbrancers. It will not interfere with the principle of the Bill or with the object which the Honourable the Home Member has in view. I hope, therefore, he will accept the amendment which I move.

Pandit Satyendra Nath Sen : Sir, some time ago I rose to support the amendment No. 47, which I thought had reference to the most cruel part of the Bill. If that amendment referred to the most cruel part, this amendment refers to the most irrational part of the Bill. Does it stand to reason that "A" should suffer for the offence of "B" and for no fault of his? This amendment is most reasonable, and I hope the Honourable the Home Member will relent a bit this time, although he may be afraid that it will go a great way to damage the good reputation of his being possessed of an exceptional equanimity of mind with which he has kept tight so long to the wonder of this House and, for the matter of that, to the wonder of the whole country.

Mian Muhammad Shah Nawaz (West Central Punjab : Muhammadan) : Mr. President, this amendment has considerable force and in my opinion encumbrances created before the passing of this Act should be protected. A man who took a mortgage of a press before the commencement of the Act did not know that the Press Bill was to be passed and brought on to the Statute-book. He certainly did not know that the press after the first bite would be forced to deposit security, and if it were not deposited within the specified time, the press was liable to be forfeited. Now, Sir, it is a fundamental principle of law that a man who has taken a transfer for valuable consideration before a certain enactment comes into force must be protected and it is also equity, justice and good conscience. It is the duty of the Legislature to protect all *bona fide* encumbrances which were made for valuable consideration before the commencement of the Act. The case of a man who has sold his press on a hire and purchase contract is directly in point. The transferee does not become absolute owner of the press until the last instalment is paid and the transferor has a lien on it to the extent of the unpaid amount. Surely the Government should not be allowed to destroy a lien created before the enforcement of the Act. Sir, I agree that encumbrances created after the passing of the Act need not be protected, because the press being under a cloud, the Government have every right to forfeit it. But the right of the Government to forfeit should be subject to a lien if the encumbrance is created before the passing of the Act. I do not know of any principle of law under which the Government are entitled to forfeit the property over which a lien in favour of a third person was created by a mortgage before the passing of the Act. The point is too obvious and in my humble opinion the Government in equity, justice and good conscience should accept my suggestion. Sir, I may be allowed to move this amendment to the amendment of my Honourable friend Mr. Das. (Applause.)

Sardar Sant Singh : Sir, to me this clause 30 has been drafted without any regard to the interest of anybody except the State. My objection to this is this. I will give an illustration. Supposing I advance

money to a keeper of the press or the owner of the press and I get a decree against him and in execution of that decree I get the press attached and the press is actually under attachment. Then the auction takes place, but the money is not yet given to me. Meanwhile at this stage the Government forfeits the press. I want to know whether I am protected at that stage or not. What right has been left in the owner of the press or the keeper of the press which the Local Government wants to forfeit? There is nothing. Another extreme case is this. Supposing a charge is already there on the press by a mortgage. Now the Government come in and forfeit the press. Why should my rights be taken away? There is no reason. Therefore, this amendment is a fundamental amendment which goes to the root of the whole thing and I support it.

Sir Lancelot Graham : Sir, we are appealed to in the name of justice. We desire to deny justice to no one. But there are great difficulties attached to the possibility of acceptance of the amendment now before the House. I am not quite sure whether it is suggested that we have forged a new weapon of repression in this clause. But I do notice that not a single one of the speakers has made any reference to the fact that this clause 30 actually only reproduces the contents of the corresponding section in the Act of 1910.

Sardar Sant Singh : Is that a justification?

Sir Lancelot Graham : I expected that from my acute friend, Sardar Sant Singh. That does not necessarily justify the existence of this clause. I agree with him. But I do say that the fact that the clause had been in operation for 12 years is worth taking into consideration.

Mian Muhammad Shah Nawaz : The clause was condemned by Sir Lawrence Jenkins and the Chief Justice and Mr. Justice Stephens of the Calcutta High Court in the famous *Comrade* case.

Sir Lancelot Graham : As regards the rights of the mortgagee?

Mian Muhammad Shah Nawaz : As regards the rights of the previous mortgagee, the Government has absolute right under this clause to forfeit those rights. My contention is that the *bona fide* mortgagee, or one who held a lien over the property before the commencement of the Act should be allowed to establish it before a civil court. As the clause stands now the Government's right to forfeit is absolute against all persons including the *bona fide* mortgagee who took the mortgage long before this Bill was contemplated.

Sir Lancelot Graham : I entirely agree that is the position and I have suggested nothing else. But what I do understand is, that my Honourable friend, Mian Shah Nawaz, for whose opinion I have the greatest respect, said that he would support action of this kind, confiscation in respect of the press being mortgaged if the mortgage had not taken place before the passing of this clause. But I do not find that the amendment on the paper makes any such distinction. I think it is a great pity if my Honourable friend, Mian Shah Nawaz, holds such definite views, that he should not have tabled an amendment himself.

Mr. B. Das : May I ask if I can move an amendment in line with what the Honourable Member, Sir Lancelot Graham, has suggested and whether that will be accepted?

Sir Lancelot Graham : I am not suggesting any amendment, Sir. I am criticising the position of my Honourable friend, Mian Shah Nawaz. My friend, Mr. Sen, on the other hand, said that "A" should not suffer for the sake of "B". As I understand the purport of this amendment, it is that a press, though it be the instrument by which the offence is committed, is not to be forfeited, if people can come forward saying, "I have a mortgage and consequently cannot have the forfeiture". It is opening the way to confusion and merely putting in the word *bona fide* is not going to ensure the proper working of the amendment. It will be possible for proprietors of presses to take refuge behind their mortgagees and in that way evade merited forfeiture. My friend, Mr. Das, said he wanted to be kind to mortgagees. We do not wish to be unkind to mortgagees. But we have to look to the activities of the press and not to the feelings of the mortgagees, and for that reason, I think this clause is essential in its present form. I do not say it was impossible for the Opposition to devise something which might have been acceptable, provided it did not interfere with the effectiveness of the provision for forfeiture. Forfeiture is absolutely essential when the press or the newspaper has contravened the provisions of this Bill in such a way as to require the passing of an order of forfeiture.

Mr. B. Das : After hearing the Honourable Sir Lancelot Graham's speech, may I suggest an amendment acceptable to him, namely, the protection of such encumbrances which are declared before a Magistrate at the time of encumbrance.

Sir Lancelot Graham : That would not help us in the least.

Mr. S. C. Mitra : May I suggest that we might add all encumbrances before the passing of this Act ?

Sir Lancelot Graham : That does not solve the trouble either.

Mr. S. C. Sen : I do not know whether Sir Lancelot Graham is willing to take any suggestion

Sir Lancelot Graham : I am afraid not.

Mr. President : Government do not seem to be inclined to accept any suggestion on those lines. The question is :

"That in clause 30, after the words 'as against all persons' the words 'other than *bona fide* encumbrancers' be inserted."

The Assembly divided :

AYES—16.

Chandi Mal Gola, Bhagat.
Chetty, Mr. R. K. Shanmukham.
Das, Mr. B.
Dutt, Mr. Amar Nath.
Fazal Haq Piracha, Shaikh.
Jog, Mr. S. G.
Lahiri Chaudhury, Mr. D. K.
Mitra, Mr. S. C.

Ranga Iyer, Mr. C. S.
Sant Singh, Sardar.
Sarda, Rai Sahib Harbilas.
Sen, Pandit Satyendra Nath.
Singh, Mr. Gaya Prasad.
Thampan, Mr. K. P.
Uppl Saheb Bahadur, Mr.
Ziauddin Ahmad, Dr.

NOES—49.

Abdul Qaiyum, Nawab Sir Sahibzada.
Ahmed, Mr. K.
Allah Baksh Khan Tiwana, Khan
Bahadur Malik.
Azizuddin Ahmad Bilgrami, Qazi.

Bajpai, Mr. R. S.
Banerji, Mr. Rajnarayan.
Crerar, The Honourable Sir James.
Dalal, Dr. R. D.
DeSouza, Dr. F. X.

NOES—contd.

Dyer, Mr. J. F.
 Fox, Mr. H. B.
 French, Mr. J. C.
 Graham, Sir Lancelot.
 Heathcote, Mr. L. V.
 Heslett, Mr. J.
 Howell, Mr. E. B.
 Ishwarsingji, Nawab Naharsingji.
 Ismail Ali Khan, Kunwar Hajee.
 Jawahar Singh, Sardar Bahadur Sardar.
 Knight, Mr. H. F.
 Lalchand, Captain Kao Bahadur.
 Lall, Mr. S.
 Leach, Mr. F. B.
 Montgomery, Mr. H.
 Moore, Mr. Arthur.
 Morgan, Mr. G.
 Mukherjee, Rai Bahadur S. C.
 Pandit, Rao Bahadur S. R.
 Parsons, Mr. A. A. L.
 Rainy, The Honourable Sir George.

Rajah, Rao Bahadur M. C.
 Rama Rao, Rai Bahadur U.
 Row, Mr. K. Sanjiva.
 Roy, Mr. S. N.
 Sahi, Mr. Ram Prasad Narayan.
 Sams, Sir Hubert.
 Schuster, The Honourable Sir George.
 Scott, Mr. J. Ramsay.
 Sher Muhammad Khan Gakhur, Captain.
 Shillidy, Mr. J. A.
 Studd, Mr. E.
 Suhrawardy, Sir Abdullah.
 Sykes, Mr. E. F.
 Tait, Mr. John.
 Talib Mehdi Khan, Nawab Major
 Malik.
 Todd, Mr. A. H. A.
 Yamin Khan, Mr. Muhammad.
 Young, Mr. G. M.
 Zulfiqar Ali Khan, Sir.

The motion was negatived.

Mr. S. C. Sen : Sir, the amendment which I wish to move reads thus :

“ That in clause 30, after the words ‘ has taken place ’ the following be inserted :

‘ provided the notice of forfeiture was made in strict conformity to the provisions of this Act ’.”

I know, Sir, the opinion that has been expressed by the Honourable the Law Member, and I do not expect any mercy from the Government. I know that the Treasury Benches will not accept this amendment. The opinion of the Honourable the Home Member is not only wrong, but it is against the considered opinion of two Chief Justices and four Judges of the High Court. With these observations, I move.

The Honourable Sir James Crerar : I think, Sir, that in substance the Honourable Member's amendment is practically the same as the one which has already been dealt with. It has been dealt with in full by the Honourable the Law Member, and I have nothing to add to what he said, except that in this context the same considerations will apply.

The motion was negatived.

Clause 30 was added to the Bill.

Clauses 31 and 32 were added to the Bill.

Mr. President : Clause 1.

Mr. S. G. Jog : Sir, we have practically reached the last stage of the battle, and if we fail here, we will fail in the battle, subject of course to the position at the third reading of the Bill. My amendment is that the provisions of this measure shall not be operative in any province unless the Local Government of the province makes out a case for the application of the said Act and takes the sanction of the Government of India or the Governor General in Council. When I sent in this amendment, I was a bit doubtful about the propriety of this. Somehow or other I find that I am not supported by anybody else, and I stand by myself, and I have to fight my own battle. Fortunately to-day I find there is a similar amendment moved by my friend, Mr. Thampan, and I think I have only to depend

[Mr. S. G. Jog.]

on him for supporting this amendment. Over and above that, I find that a leading newspaper of my province has also taken the same view as I have taken in this matter. That paper has suggested that it is admitted that terrorist organizations exist in some parts of the country, and so it asks why cannot the Bill be restricted to the same parts in the first instance, giving power to the Local Governments to apply it to other areas if necessary. I must congratulate myself that I belong to a province which fortunately is not in the list of "bad boys". I observe from the brochure that has been supplied to us showing the statement of offences and crimes in all parts of India, that there is not a single case of terrorist movement or incitement to violence and such like things in my province. I will not take the highest number first, but I shall take the lowest number, and I would ask the Honourable the Home Member to point out any terrorist crime in my sub-province or head province under which my province is. There is not a single case of terrorist movement or any incitement or any leaflet published calculated to incite people to murderous activities or any charge of that sort in my province. (*An Honourable Member* : "Which is that province?") Berar. As regards the Central Provinces, I find that there is only one case, and that case is the finding of a bomb in the house of a *sonar* in a certain village, and a certain quantity of chemicals and communist and revolutionary literature was recovered from that goldsmith's house. The suspicion is that that the bomb was being prepared for political purposes. Whenever a bomb is found it is always suspected that it is for political purposes. This is the only case which is referred to. As regards the other provinces, take Burma, and I find no case there. The United Provinces, there is one case, Indian States, one case. So my point is that in those provinces in which there is no such terrorist movement, or where the newspapers have not taken to bad ways or to those bad measures as are described in some of these pamphlets, I do not see any reason why these drastic provisions of the law should be applied. On the contrary, if this law is applied indiscriminately to all the provinces, it will be practically keeping a sword hanging over the heads of those provinces. I say there is absolutely no necessity to apply this law to other provinces where there is no terrorist or other kind of anarchical movement. If Government still insist that this law should be applied to other provinces also, then I shall have no hesitation in charging Government with carrying this poison to my province and to other provinces where there is no terrorist movement in existence and if anything happens, it will be due to application of this law where it is not necessary. Therefore, my submission is this. You pass the general law, and if any recommendations come from the Local Governments, or if there are any cases of such a nature as to render the application of this law necessary, those Local Governments should make out a case and the Government of India should be satisfied that there is necessity for applying the provisions of this law, and then this law could be applied to such provinces. Sir, with these words, I move the amendment.

Mr. S. C. Mitra : Sir, I support the amendment of my friend, Mr. Jog. I do not know whether Government will accept this amendment or whether it will be supported by other Members who pose as free thinkers and are guided only by the consideration of justice and equity. Now, from the very beginning I was under the impression that this Bill was really meant, not for suppression of incitement to murder and the like, but its real purpose was to suppress the nationalist Press. If the Government are

of that opinion, let them say so now. Mr. Jog is speaking of provinces where there are no cases of terrorist or other revolutionary activities, and Government, even from their own book, could not cite a single case in some provinces of incitement to murder or violence. Now, the law will be there, and, only if any Local Governments want it, they can apply to the Government of India. If the real purpose of the Bill is not to suppress the Press, then Government will see their way to accepting the amendment.

The Honourable Sir James Crerar : I think the Honourable the Mover of this amendment, if he reflects a little, will come to the conclusion that this amendment is misconceived. In the first instance, I should point out that its form is quite inadmissible, and would be, for example, entirely inconsistent with sub-clause (3) of the clause. But what I imagine the Honourable the Mover had in mind was this, that the Bill, when it becomes law, should not be generally in force in the whole of British India, but should only come into force with the sanction of the Governor General in Council on the motion of the Local Government concerned. I will deal with what appears to me to be the principle behind the Honourable Member's amendment, though I could not in any case accept it because of its extreme defect in form. But let me get down to the question of principle. He suggests that if in any particular province no terrorist crime has taken place, that will be a good case for not having the Act in force in that province. Sir, I may point out that the Bill is directly aimed against incitement to and encouragement of murder and other acts of violence and not the original offences themselves, which, of course, are dealt with by other provisions of the law. My point is that the principle of my Honourable friend's amendment is quite misconceived. It is also based upon a misapprehension of facts, because in point of fact the recent Punjab Mail train murder took place within the territories of the Central Provinces, and it was found.....

Mr. S. G. Jog : The matter is *sub judice*.

The Honourable Sir James Crerar : And within the jurisdiction of the Courts of that province.

Mr. S. G. Jog : It is the Central Provinces.

Mr. J. F. Dyer (Central Provinces : Nominated Official) : One of the accused persons did come from Berar.

Mr. S. G. Jog : The matter is still *sub judice*.

The Honourable Sir James Crerar : Sir, it is a relevant fact that in the course of that trial references were made in evidence to the influence of inflammatory literature. That, therefore, I think, disposes to a very large extent of the allegations of fact on which the Honourable Member bases his case. But the principle goes really much further. It is quite clear that a measure of this kind, if it is to be effective, at all, must be applicable to the whole of India because if the provisions of this law are not applicable to one particular province, it will be perfectly open to the offending Press to invade that province and carry out its propaganda from there. It is essential in order to prevent the circulation and dissemination of undesirable matter from one province to another that the law should have general applicability. For these reasons, both on the point of form and on the point of principle, I must oppose this amendment.

Mr. President : The question is :

“ That in sub-clause (2) of clause 1, after the words ‘ Sonthal Parganas ’ the following be added :

‘ but it shall not be operative in any province unless the Local Government of the Province makes out a case for the application of the said Act and takes the sanction of the Government of India or the Governor General in Council ’.”

The motion was negatived.

Mr. S. C. Mitra : I move :

“ That in sub-clause (3) of clause 1, all the words occurring after the words ‘ for one year only ’ be omitted.”

My purpose is to restrict the operation of this Act to one year only. As a matter of fact, I know that such a drastic measure with wide scope, under which anything may be netted, was accepted by many Honourable Members as a emergency measure, which means that it will last only for a short period. If the Honourable the Home Member is not afraid of this House when it will be in full session, if he is not afraid that in a fuller House he may not get the opportunity he has now, and that it may not be such plain sailing for him, I hope that he will accept this suggestion of mine that the Act should last for a period of one year only, and if any necessity arises again thereafter for such a measure, it may be re-enacted at the proper time. Sir, I move.

The Honourable Sir James Crerar : I am afraid I cannot accept this amendment. I think that it would be idle to suppose, in the circumstances with which we are confronted, that a period of one year would be a reasonable period within which to expect that a definitive effect would be produced upon this evil. The Government have already gone a long way in reducing the period from three years to two years, and if we go beyond that I think we should be failing in our duty.

Mr. President : The question is :

“ That in sub-clause (3) of clause 1, all the words occurring after the words ‘ for one year only ’ be omitted.”

The motion was negatived.

Mr. President : The question is that clause 1 stand part of the Bill.

The motion was adopted.

Clause 1 was added to the Bill.

Mr. President : The question is that this be the Title and Preamble of the Bill.

Sardar Sant Singh : Sir, I am not moving amendment No. 3,† but I beg to move amendment No. 5 which runs as follows :

“ That in the preamble to the Bill, before the word ‘ violence ’ the words ‘ cognisable offence involving ’ be inserted.”

The provisions of this Bill are confined to cognisable offences involving violence, and therefore those words must be added. It is only a formal amendment and I hope it will be accepted.

† “ That in the preamble to the Bill the words ‘ or encouraging ’ be omitted.”

The Honourable Sir James Crerar : I think this is quite unnecessary. The operative part of the Bill is in clause 4 ; and the preamble is not an operative part of the Bill. It does not purport to give a precise statement of the detailed provisions of the Bill, and the preamble, as it stands is a succinct and quite adequate expression of the general contents of the Bill. For these reasons I do think that the amendment will be entirely inappropriate.

Mr. President : The question is :

“ That in the preamble to the Bill, before the word ‘ violence ’ the words ‘ cognisable offence involving ’ be inserted.”

The motion was negatived.

Mr. President : The question is :

“ That this be the Title and Preamble to the Bill.”

The motion was adopted.

The Title and Preamble were added to the Bill.

Mr. President : I should like now to ask Honourable Members whether they wish that the motion to pass the Bill should be taken up now.

The Honourable Sir George Rainy : I should like to say, speaking not so much on behalf of the Government as on behalf of what I believe to be the wishes and convenience of a great majority of the Members of this House, that the arrangement which would be most convenient would be that we should proceed to the third reading of the Bill now. I wish to make it quite clear that it is not a question of the interests of Government or the consideration that sometimes arises over other Bills, but I do believe that there is a very strong wish amongst the majority of Members of this House that, if possible, the session should be closed to-morrow and I do not see how that is possible at all unless we can clear off the work to-morrow.

Mr. C. S. Ranga Iyer : I endorse every word that the Honourable the Leader of the House has said. I very much wish that we should sit up and finish this Bill, especially, judging from the thin attendance in the House, which reveals that there is no desire to prolong the discussion of this Bill on this side of the House.

Mr. S. C. Mitra : We do not agree with the Honourable the Deputy Leader of the Nationalist Party. If it is a question of the thinness of the House, we could have gone away a couple of days earlier. If the Government want to take advantage of the thinness of the House, let them do so but the Opposition must have its say. I should like you, Sir, to adjourn.

Mr. President : The point on which I wish to consult Honourable Members is whether the third reading of the Bill should be taken up now or whether it should be taken up later. If it is not taken up to-day, it will be open to Government to take it up to-morrow or on Monday. Having regard to what Mr. Ranga Iyer has said, I want to know the feeling of the House.

Sir Lancelot Graham : It is on the Agenda Paper for to-morrow.

Mr. President : Will those Honourable Members who want the debate to be adjourned rise in their places ?

(A number of Honourable Members stood up.)

Mr. President : Having regard to the lateness of the hour, it would be preferable to adjourn the meeting now.

The Assembly then adjourned till Eleven of the Clock on Saturday, the 3rd October, 1931.
