

11th September 1935

**THE  
LEGISLATIVE ASSEMBLY DEBATES**

**(Official Report)**

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**Volume V, 1935**

*(2nd September to 16th September, 1935)*

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**SECOND SESSION**

**OF THE**

**FIFTH LEGISLATIVE ASSEMBLY,  
1935**



**NEW DELHI  
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# Legislative Assembly.

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**MR. LALCHAND NAVALRAI, M.L.A.**

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# LEGISLATIVE ASSEMBLY.

*Wednesday, 11th September, 1935.*

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

## SUPPLEMENTARY QUESTIONS AND ANSWERS.

### REFUSAL OF PERMISSION TO MR. MOHAN LAL SAKSENA TO VISIT THE CELLULAR JAIL AT PORT BLAIR.

**Mr. Sri Prakasa** : Sir, I have got my supplementary questions to question No. 240 which you kindly allowed to be put today. May I put them now ?

**Mr. President** (The Honourable Sir Abdur Rahim) : Yes.

**Mr. Sri Prakasa** : It is a long list, but I have supplied a copy of these questions to the Honourable the Home Member, so he should not have any difficulty in answering them.

Do the papers laid upon the table of the House contain all the documents pertaining to the correspondence between the Home Member or his Government and Mr. Mohan Lal Saksena and the Honourable Mr. Chetti ?

**The Honourable Sir Henry Craik** : The papers which were laid upon the table contain the whole of the correspondence with Diwan Bahadur G. Narayanaswami Chetti. I only laid one letter of Mr. Mohan Lal Saksena on the table, because that was all I was asked for. To the best of my recollection, the whole of the correspondence was published in the press.

**Dr. Ziauddin Ahmad** : I rise on a point of order, Sir. Other Honourable Members are handicapped, because we do not know the contents of the correspondence that was laid on the table, and, therefore, we cannot follow the supplementary questions.

**Mr. President** (The Honourable Sir Abdur Rahim) : These supplementary questions are with reference to a question that was answered yesterday.

**Dr. Ziauddin Ahmad** : These supplementary questions are with reference to certain papers which were laid on the table and those papers are in possession of one Honourable Member.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Chair takes it that the papers which are laid on the table of the House are open to all Honourable Members.

**Mr. Sri Prakasa :** I should like to know from the Home Member whether he would prefer me to put one question at a time or shall I put all the questions at one time ?

**The Honourable Sir Henry Craik :** It would be convenient if the Honourable Member puts one question at a time.

**Mr. Sri Prakasa :** Did the Honourable Mr. Chetti have an interview with Mr. J. S. Smyth, the Chief Commissioner of the Andamans, at the Home Member's residence as desired in the letter of the Government of India (Home Department), No. 1316|33-Jails, dated the 30th October, 1933 ?

**The Honourable Sir Henry Craik :** As I was not Home Member or in possession of the Home Member's residence at the time, I cannot say.

**Mr. Sri Prakasa :** Did the Honourable Mr. Chetti disclose to Mr. Smyth the reason of his desire to visit the Andamans, and was Mr. Smyth satisfied that Mr. Chetti would go with an open mind, and was the right sort of person to be permitted to visit Port Blair ?

**The Honourable Sir Henry Craik :** I do not know whether the interview took place. But if it did take place, I do not know what happened.

**Mr. Sri Prakasa :** Did the Honourable Mr. Chetti avail himself of the permission given to him to visit the Andamans in the Government of India (Home Department) letter No. D.-1451|33-Jails, dated the 20th November, 1933, and the advice offered to him regarding the exact steamer by which he should travel ?

**The Honourable Sir Henry Craik :** He had to postpone his visit which he had intended to make sometime in November 1933 till later for private reasons.

**Mr. Sri Prakasa :** When did Mr. Chetti actually visit the Andamans ? Did he ask for permission again before going there ? If so, will Government inform the House of the exact nature of the communication and the date thereof ?

**The Honourable Sir Henry Craik :** He visited the Andamans in April, 1935. I received no communication from him before he went there.

**Mr. Sri Prakasa :** Did Government themselves inform Mr. Chetti of the earlier permission accorded to him to visit the Andamans after receiving Mr. Saksena's requisition ? Was the advice repeated that he may visit the Andamans and was the steamer by which he might travel also prescribed ?

**The Honourable Sir Henry Craik :** Not as far as I am aware.

**Mr. Sri Prakasa :** Was the permission of 1933 of a nature that was good for all time ? Did Mr. Chetti inform the Government that he was going to the Andamans before he actually went ? Did he keep in touch with Government and their officers in the Andamans during his visit ?

**The Honourable Sir Henry Craik :** I have no information on that point.

**Mr. Sri Prakasa :** Was some official always present with Mr. Chetti when he was carrying on his investigations, and had he any opportunities of independent inquiry ?

**The Honourable Sir Henry Craik :** That, again, I have no information about.

**Mr. Sri Prakasa :** Did Mr. Chetti send a report on the results of his visit of his own initiative or was he requested by Government formally or by any official orally to send his report ?

**The Honourable Sir Henry Craik :** He sent it on his own initiative.

**Mr. Sri Prakasa :** What words of Mr. Saksena in his letter made Government fear that he was not likely to make impartial inquiries ? What words of his gave Government the idea that he accepted as true the complaints that had reached him ? Does not the very fact that he wanted to make sure of the conditions at Port Blair by a personal visit prove that he did not accept the complaints as necessarily true ? Did he not say that he only wanted to see things for himself and bring them to the notice of Government ?

**Mr. President (The Honourable Sir Abdur Rahim) :** The Honourable Member must wait for the answer.

**The Honourable Sir Henry Craik :** (After a pause.) I am sorry, but I thought your ruling was that the question contained arguments.

In regard to that question, I have nothing to add to what I wrote in my letter which I laid on the table yesterday.

**Mr. Sri Prakasa :** Did the Honourable Member object to Mr. Saksena on the ground that he went there as a self-appointed visitor ? What was the position of Mr. Chetti when he submitted his report ?

**The Honourable Sir Henry Craik :** The same position as before.

**Mr. Sri Prakasa :** What opportunities have persons confined in the Andamans to make complaints to authority ?

**The Honourable Sir Henry Craik :** I do not think that arises, but, as a matter of fact, they have opportunities as the Deputy Commissioner is bound to visit the jail from time to time and receive complaints.

**Mr. Sri Prakasa :** Are prisoners assured of protection from all harm if they make such complaints ? Are any complaints suppressed by jail authorities ?

**The Honourable Sir Henry Craik :** I do not think so.

**Mr. Sri Prakasa :** You do not think that any protection is afforded to them ?

**The Honourable Sir Henry Craik :** Yes, protection is afforded to them : but if the complaints are completely false, they are punished.

**Mr. Sri Prakasa :** When the Deputy Commissioner visits the jail, is he not accompanied by jail officials and is it possible for a prisoner to complain frankly when the jail official is present ?

**The Honourable Sir Henry Craik :** My experience is that prisoners are not deterred by the presence of jail officials and they make complaints freely.

**Mr. Sri Prakasa :** As one who has been a prisoner, my experience is quite different. Have any complaints reached Government about the conditions in the Andamans during the years 1933, 1934 and 1935 ? If so, how many and did Government investigate into them ?



**The Honourable Sir Henry Craik :** Sir, does that arise in any way out of any answer that I have given ?

**Mr. T. S. Avinashilingam Chettiar :** At whose expense did Mr. Chetti travel to Andamans ?

**Mr. Sami Vencatachalam Chetty :** May I ask, Sir, if there is any time-limit fixed for permission to go to the Andamans ?

**The Honourable Sir Henry Craik :** I do not know if that question has ever arisen before. It depends upon the circumstances of each case.

**Mr. Mohan Lal Saksena :** Is it a fact that Diwan Bahadur Narayanaswami Chetti sent two letters and two reports to the Government of his visit regarding the inspection of Port Blair ?

**The Honourable Sir Henry Craik :** He wrote more than one letter as far as I remember, but he sent only one report.

**Mr. Mohan Lal Saksena :** A communiqué was issued by the Home Department giving both letters and that appeared in the Press also ?

**The Honourable Sir Henry Craik :** He sent only one report, but we have had more than one letter.

#### QUESTIONS AND ANSWERS.

#### HINDU, BUDDHIST AND MUHAMMADAN MONUMENTS IN THE SOUTHERN CIRCLE, MADRAS.

257. **\*Mr. C. N. Muthuranga Mudaliar :** (a) Will Government be pleased to place on the table a list of Hindu, Buddhist and Muhammadan monuments in the Southern Circle, Madras ?

(b) Will Government state how many of these monuments have been vested under the supervision of Government according to the Preservation of Monuments Act ?

(c) How many of such monuments are Hindu, Buddhist and Muhammadan ?

(d) What are the monuments that have not yet been taken by the Department of Archæology for conservation and protection under the said Act ?

(e) What action has been taken till now, or is proposed to be taken hereafter, by the Superintendent of Archæology, Southern Circle, Madras, in the above matter ?

(f) Is it a fact that the most important Pallava Monuments in the Seven Pagodas and Conjeevaram are going to decay, and if so, what action has been taken by the Superintendent of Archæology, Southern Circle, Madras, in the matter of their preservation ? If no action has been taken till now, why not ?

(g) Do Government now propose to take the necessary action ?

(h) Is it a fact that the inscriptions on the Pallava Monuments in the Seven Pagodas and Conjeevaram are becoming obliterated ?

(i) Has the attention of Government been called to that point ?

(j) Does the Superintendent, Archæology, Southern Circle, propose to take measures to preserve them from decay ?

**Sir Girja Shankar Bajpai :** (a) It is not possible to comply with the Honourable Member's request as Government only have a list of the monuments that they have protected.

(b) and (c). 347, of which 226 are Hindu, 19 Buddhist and 15 Muhamadan.

(d) A list of the monuments which Government think might be but have not been taken over is laid on the table.

(e) Until the financial position improves, the Department cannot assume responsibility for additional monuments.

(f) and (g). Such decay as is due to natural causes beyond human control cannot be checked. Ordinary repairs to these monuments are undertaken by the Department through the Public Works Department. The question of making certain special improvements to the Seven Pagodas is engaging attention.

(h), (i) and (j). Most of these inscriptions are protected and Government are not aware that any damage has been done to these inscriptions apart from what is due to such exposure as cannot be prevented.

*List of Ancient Monuments selected for Conservation in the Madras Presidency, not yet declared protected*

No.	District.	Locality.	Name of Monuments.
1	Guntur .. ..	Santaravuru ..	Ramalinga and Chonnakesava temple.
2	Do. .. ..	Chinnaganjam ..	Chidambara temple.
3	Do. .. ..	Do. .. ..	Buddhist remains in a mound.
4	Do. .. ..	Peddaganjam ..	Bogandani Dibba with Buddhist remains.
5	Do. .. ..	Malkapuram ..	Nandi slab with inscriptions in front of Visvesvara temple.
6	Do. .. ..	Chejerla .. ..	Kapotesvara temple with a chaitya as shrine and sculptures.
7	Do. .. ..	Kondavidu .. ..	The hill fort and buildings therein.
8	Do. .. ..	Do. .. ..	Gopinatha temple and inscribed pillar at the foot of the hill fort.
9	Do. .. ..	Kanuparti .. ..	Hindu sculptures in white and black stones.
10	Do. .. ..	Do. .. ..	Isvara temple.
11	Do. .. ..	Amaravati .. ..	Amarasvara temple.

No.	District.	Locality.	Name of Monuments.
12	Guntur .. ..	Garikapadu ..	Buddhist remains in a mound.
13	Anantapur ..	Uravakonda ..	Mallikarjuna temple.
14	Chingleput ..	Conjeeveram ..	Kamatchi Amman temple.
15	Do. .. ..	Do. .. ..	Varadaraja Perumal temple.
16	Madura .. ..	Kilakudi .. ..	Jain statues and rock inscriptions on Sattipoduvu caves on the Usanamalai Hill.
17	Do. .. ..	Do. .. ..	Similar statues and inscriptions on the top of the same hill at Pechipallam above Aiyaner temple.
18	Do. .. ..	Madura .. ..	Meenatchi Amman temple.
19	Do. .. ..	Do. .. ..	Teppakulam.
20	Do. .. ..	Do. .. ..	Gudal Alagar Perumal temple.
21	Do. .. ..	Do. .. ..	Nanmaithruvar koil, western gateway containing works of art both in and outside including the carving of a tank on the ceiling.
22	Do. .. ..	Do. .. ..	Annakuli mandapam containing big statues buried under the ground.
23	Madras .. ..	Yanamalai .. ..	Jain cave with inscriptions and other remains.
24	Do. .. ..	Do. .. ..	Narasimha temple with inscriptions.
25	Do. .. ..	Alagarkoil .. ..	Fort enclosing the temple.
26	Do. .. ..	Do. .. ..	Remains of Tiramal Naick's Palace.
27	Do. .. ..	Do. .. ..	Temple with Hanuma-tirtham tank.
28	Do. .. ..	Palni .. ..	Temple on the Idumbarmalai.
29	Do. .. ..	Kongarapuli-yangulam.	Panchapandava beds and Brahma inscriptions in the cavern on the hill.
30	Do. .. ..	Kuppalanattam ..	Jain sculptures on the hillock.
31	Do. .. ..	Vikramangalam ..	Temple at Koilpatti.
32	Trichinopoly ..	Samayapuram ..	Sojesevara temple.
33	North Arcot ..	Devikapuram ..	Brinadambal temple.
34	Do. .. ..	Do. .. ..	Kanakagirisvara temple.
35	Do. .. ..	Brahmalesan ..	Chandramouleavara temple.
36	Do. .. ..	Do. .. ..	Rudrakotesvara temple.

No.	District.	Locality.	Name of Monuments.
37	North Arcot	Ukkal	Vishnu temple.
38	Do.	Padavedu	Hanuman temple.
39	Do.	Nelvoy	Rama temple.
40	Do.	Sholavaram	Siva temple.
41	Do.	Pudupadi	Bharadwajeevara temple.
42	Do.	Sholinghur	Padampuram temple.
43	Do.	Tirakkol	Boulder stone containing inscriptions and Jaina images.

**Prof. N. G. Ranga :** Are Government aware that Amaravati and Bhattiprole monuments which are supposed to be protected under this Act are really in a very bad condition because of official neglect ?

**Sir Girja Shankar Bajpai :** I do not admit the suggestion that there has been official neglect. I have really no information regarding these two monuments, but I shall make enquiries.

**Prof. N. G. Ranga :** Are Government bringing any more monuments within the purview of the Ancient Monuments Preservation Act ?

**Sir Girja Shankar Bajpai :** I have already answered that question. I have said that until the financial position improves, Government do not propose to assume responsibility for any additional monuments.

DISCOVERY OF PAINTINGS AT CERTAIN TEMPLES AT CONJEEVARAM AND TANJORE.

258. **\*Mr. C. N. Muthuranga Mudaliar :** (a) Are Government aware of the fact that some old and interesting paintings have been discovered in the Kailasanathar Temple at Conjeevaram, the Brihadiswara Temple at Tanjore and the Jain temple at Tirupparuttikundram near Conjeevaram ?

(b) Is the Superintendent of Archæology, Southern Circle, making any attempts to preserve them from decay ? If not, why not ?

**Sir Girja Shankar Bajpai :** (a) Yes.

(b) Of the three temples mentioned by the Honourable Member only the Kailasanathar Temple is a protected monument. But as it is privately owned and in religious use, the scope of any measures for the preservation of the paintings thereon is necessarily limited. Negotiations for making the other two temples protected monuments are in progress.

**Mr. C. N. Muthuranga Mudaliar :** Has any negotiation been carried on with the trustees of Kailasanathar Temple so as to give greater scope for preservation of the inscriptions ?

**Sir Girja Shankar Bajpai :** I understand that the Superintendent of the Circle concerned is in negotiation with the Trustees ?

**Mr. M. Ananthasayanam Ayyangar :** What is the amount spent per year on the preservation of all the monuments in the Madras Presidency ?

**Sir Girja Shankar Bajpai :** I want notice of the question.

#### DISCOVERY OF BUDDHIST IMAGES AT NEGAPATAM.

259. \***Mr. C. N. Muthuranga Mudaliar :** (a) Are Government aware of the fact that a fresh find of a large number of Buddhist images was recently discovered at Negapatam ?

(b) Does the Superintendent of Archæology propose to explore the site fully ? If not, why not ?

(c) Do Government propose to acquire the site and carry on excavations ?

**Sir Girja Shankar Bajpai :** (a) Yes.

(b) and (c). No, as further digging of the site after the finds referred to did not reveal anything of archæological interest.

#### RESULTS OF EXCAVATIONS AT NAGARJUNAKONDA IN THE GUNTUR DISTRICT.

260. \***Mr. C. N. Muthuranga Mudaliar :** (a) Will Government be pleased to state the action taken by the Superintendent of Archæology, Southern Circle, Madras, in placing before the public the results of the excavations that were carried on at Nagarjunakonda in the Guntur District ? If no action has been taken, what are the reasons for not doing so ?

(b) Will Government be pleased to lay on the table a list of the various publications of the present Superintendent of Archæology, Southern Circle, Madras, on Hindu, Buddhist and Muslim archæology and architecture ?

(c) Do Government consider such publications as an essential qualification and integral part of the official routine of the various officers in the Department of Archæology ?

**Sir Girja Shankar Bajpai :** (a) A preliminary account of the excavations at Nagarjunakonda was published by the Director General of Archæology in India in the principal Indian newspapers in 1930. The question of entrusting the preparation of a full report of the excavations to Mr. A. H. Longhurst, formerly Superintendent, Archæological Survey, Southern Circle, who himself conducted the excavation and the distinguished archæologist, Dr. J. Ph. Vogel of Leiden has been under the consideration of the Director General of Archæology in India for some time past.

(b) No separate publications have been issued by the present Superintendent but he has regularly contributed to the Annual Reports of the Archæological Department.

(c) Every officer of the Department is expected to be able to write about the subject in which he is a specialist.

**Prof. N. G. Ranga :** Is it a fact that some of the finds are proposed to be sent to the Madras Museum and the London Museum ?

**Sir Girja Shankar Bajpai :** I am not aware of any proposal for sending any of the finds to the London Museum, but, so far as the allocation to the Madras Museum is concerned, I shall supply my Honourable friend with a copy of Government orders on the subject which indicate the principles on which such allocation takes place.

**Mr. C. N. Muthuranga Mudaliar :** With regard to the answer to part (a), for how long has this been under the consideration of the Government and when it will materialise ?

**Sir Girja Shankar Bajpai :** The finds, or rather the process of finding, was completed in 1931, and, inasmuch as it has not been possible to arrange for the bringing out of a book because the terms have not yet been settled with Dr. Vogel, I cannot say how long it will take.

**Prof. N. G. Ranga :** In view of the fact that these finds are of special interest to the Andhras in the Andhra country, will Government consider the advisability of keeping as many of these finds as possible in the Bezwada museum and the rest of them preserved at Nagarjunakonda alone ?

**Sir Girja Shankar Bajpai :** I have already explained to my Honourable friend that there are regular orders indicating the principles on which distribution takes place. I cannot give my Honourable friend an undertaking about keeping these finds in the Bezwada Museum, but I will have the suggestion considered.

**Prof. N. G. Ranga :** Are proper steps being taken for the preservation of these finds at Nagarjunakonda ?

**Sir Girja Shankar Bajpai :** Of course.

**Mr. C. N. Muthuranga Mudaliar :** Are these annual reports referred to in answer to part (b) available in the Library ?

**Sir Girja Shankar Bajpai :** No separate publications have been issued by the present Superintendent, but he has regularly contributed to the annual reports of the Archæological Department.

**Mr. C. N. Muthuranga Mudaliar :** Are these annual reports available in the Library of the House ?

**Sir Girja Shankar Bajpai :** I should think so.

**Mr. C. N. Muthuranga Mudaliar :** With regard to the answer to part (c) that you expect every officer of the Department to write about the subject in which he is a specialist, may I ask whether the officers have been doing so, so far ?

**Sir Girja Shankar Bajpai :** I have already answered that in reply to part (b) that the Superintendent of Archæology has been regularly contributing to the annual reports.

**TECHNICAL QUALIFICATIONS OF THE SUPERINTENDENT OF ARCHÆOLOGY,  
SOUTHERN CIRCLE, MADRAS.**

261. **\*Mr. C. N. Muthuranga Mudaliar :** (a) With reference to answer to part (c) of question No. 1537, answered on Friday, the 5th

April, 1935, will Government be pleased to state whether Indians qualified both in archæology and architecture are available for the post of the Superintendent of Archæology, Southern Circle, Madras ?

(b) If so, are Government prepared to appoint such a person to the Southern Circle and utilize the services of the present Superintendent in a place where an architect alone will be useful ?

**Sir Girja Shankar Bajpai :** (a) and (b). Government do not accept the suggestion that the officer referred to by the Honourable Member has only architectural qualifications. They regret that no officer better suited for the charge of the Southern Circle is available for posting to this circle at present.

**Mr. C. N. Muthuranga Mudaliar :** Will the Honourable Member refresh his memory by referring to the answer which he gave to question No. 1537 referred to in this part ?

**Sir Girja Shankar Bajpai :** I took particular care to refresh my memory not once, but a dozen times before giving my answer to the present question. I do not think that anything that I said in the previous question is inconsistent with the reply that I have given to the present question.

**Mr. C. N. Muthuranga Mudaliar :** Will the Honourable Member state.....

**Mr. President (The Honourable Sir Abdur Rahim) :** Next question. The Chair does not think the House is very much interested in that.

#### CONFIRMATION OF A FOREIGN EXPERT IN THE ARCHÆOLOGICAL DEPARTMENT.

262. **\*Mr. C. N. Muthuranga Mudaliar :** (a) Has the attention of Government been drawn to the last paragraph of the Simla Correspondent's letter of the 14th June, to the *Hindu*, regarding the confirmation of a foreign expert in the Archæological Department ?

(b) Is it a fact that Government are contemplating the appointment of a non-British foreign scholar, now on special duty, to the post of Superintendent of Archæology, which was recently advertised for ?

(c) Are qualified Indians not available for the place ? If Indians are available, do Government propose to consider their claims before making the appointment ?

**Sir Girja Shankar Bajpai :** (a) Yes.

(b) and (c). The recommendations of the Public Service Commission for filling the vacant post of an Assistant Superintendent in the Archæological Survey of India are under consideration.

**Mr. C. N. Muthuranga Mudaliar :** Is it not a fact that a knowledge of Indian languages and Indian conditions is a pre-requisite for the appointment of anybody to this post ?

**Sir Girja Shankar Bajpai :** That fact was actually advertised.

**Mr. C. N. Muthuranga Mudaliar :** Did the Public Service Commission select this particular foreign scholar referred to in this clause ?

**Sir Girja Shankar Bajpai :** I have not suggested anything to that effect in my reply.

**Mr. C. N. Muthuranga Mudaliar :** In making this appointment, will Government take into consideration the extra cost involved in appointing a foreign scholar by means of overseas allowance, etc. ?

**Sir Girja Shankar Bajpai :** My Honourable friend is not quite correct in assuming that merely, because the person appointed is a foreign scholar, he is automatically entitled to overseas allowance. The answer I have given is that the question is under consideration.

**Mr. M. Ananthasayanam Ayyangar :** How many persons appeared before the Public Service Commission ? How many Indians and how many Europeans ?

**Sir Girja Shankar Bajpai :** Twelve people appeared before the Public Service Commission of whom one was a European.

**USE OF THE ARMY LANDING GROUNDS AT AGRA AND AHMEDABAD BY HIS HIGHNESS THE MAHARAJA OF KASHMIR AND PRINCE MIDWANI.**

263. \***Mr. M. Asaf Ali :** (a) Is it a fact that landing grounds belonging to the Army are not open to civil machines in normal times ? If so, why ?

(b) Is it a fact that despite this general restriction, His Highness the Maharaja of Kashmir and Prince Midwani were allowed to use Army landing grounds at Agra and Ahmedabad ? For what reasons were these exceptions made ?

**Mr. G. R. F. Tottenham :** (a) Yes, because they are required for Army purposes, but exceptions are allowed in special cases.

(b) In February, 1935, permission was accorded by His Excellency the Commander-in-Chief, as a special case, to the use of the military landing ground at Ahmedabad by His Highness the Maharaja of Kashmir on his journey to and from Bombay. Prince Midwani was refused permission to use the military landing ground at Agra.

**Mr. M. Asaf Ali :** How many such landing grounds are owned by the Army ?

**Mr. G. R. F. Tottenham :** I could not say off-hand.

**Mr. M. Asaf Ali :** A rough idea.

**Mr. G. R. F. Tottenham :** I could not give even a rough idea, without being inaccurate.

**Mr. M. Asaf Ali :** May I know if these landing grounds are ever likely to be thrown open to civil aviation ?

**Mr. G. R. F. Tottenham :** The whole question is at present under consideration.

**Mr. M. Asaf Ali :** How far have you proceeded in your consideration ?

**Mr. G. R. F. Tottenham :** At present we are discussing the conditions under which particular military areas may be used for civil aviation.



## AEROPLANE FORMERLY IN THE USE OF HIS EXCELLENCY THE VICEROY.

264. \*Mr. M. Asaf Ali : (a) On what terms has the aeroplane, formerly in the Viceroy's use, been given to the Indian National Airways ?

(b) Do the Indian National Airways get Rs. 9,000 annually for keeping it in good trim ?

(c) If so, was this plane available for the evacuation of refugees from Quetta, immediately after the earthquake and was it so used ? If not, why not ?

(d) Was this machine requisitioned for the purpose mentioned above, and did it return to the Delhi Aerodrome after reaching some place in the Punjab, because it was not found airworthy ?

The Honourable Mr. D. G. Mitchell : (a) and (b). A copy of the heads of the agreement is laid on the table. I would refer the Honourable Member to head (5).

(c) and (d). The machine was available for the evacuation of refugees from Quetta. It was requisitioned for the purpose and started on the flight to Multan on the morning of the 9th June. The pilot was obliged to return to Delhi owing to strong head winds and on inspection it was found that one engine was defective. On the following day the particular emergency (the evacuation of certain infectious cases from Quetta) for which the machine had been requisitioned had passed, and the machine was not requisitioned again.

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*Heads of agreement between the Government of India and Indian National Airways for operation of Aircraft VT-ACT.*

(1) Indian National Airways, Limited, will take delivery of the machine together with all log books and relevant certificates at the Royal Air Force Aircraft Park, Lahore, on or about the 6th October and will give to the Officer Commanding the Aircraft Park a signed receipt for the aeroplane and all items of equipment taken over.

(2) Such airframe spares for the Avro X as may now be held by the Royal Air Force will be handed over to the charge of Indian National Airways, Limited, for use on VT-ACT only. Any balance of spares unused and not recorded as used in the aircraft and engine log books will be returned with the aeroplane on the termination of this agreement.

(3) Indian National Airways, Limited, will throughout the year always maintain a flying and maintenance crew in Delhi of such numbers and qualifications as may be approved by the Director of Civil Aviation.

(4) Indian National Airways, Limited, will provide one Armstrong Siddeley Lynx 1VC engine as a spare for VT-ACT, together with the requisite stock of engine spares, and such airframe spares as may be necessary in addition to those handed over by Government. This spare engine and such spare parts as have not been fitted into the aircraft or engines will remain the property of Indian National Airways, Limited.

(5) The Government of India undertake to pay Indian National Airways, Limited, Rs. 1,800 per month in advance for the first 6 months of the year as a contribution towards the cost of the maintenance of the necessary staff to be kept as required in paragraph 3 above. Although during the second six months Government will not be paying contribution the obligation of the Company to maintain the staff will remain.

(6) The Avro X will be made available for Government use complete with crew whenever required, provided that not less than 7 days' notice is given to Indian

National Airways, Limited, that the aeroplane is required. When being used, no payment will be made to Indian National Airways, Limited, other than the detention charge provided in paragraph 8 up to a total of 15 hours in any one calendar month or up to a total of 90 hours flying in any one year, but Government will bear the expenditure actually incurred in the course of the flight, including petrol and oil, landing and housing fees and the outstation allowances of the crew. In respect of any flying on Government service over and above 15 hours in any one calendar month or over and above 90 hours in any one year, Indian National Airways, Limited, will be paid at the rate of Rs. 120 an hour in addition to the detention charge and actual expenses as referred to above.

(7) If the Avro X is required for the conveyance of His Excellency the Viceroy or Her Excellency the Countess of Willingdon, Indian National Airways, Limited, will provide a second pilot, a wireless operator and such other crew as may be approved by the Director of Civil Aviation. The actual expenses incurred in bringing such additional crew to Delhi will be repaid to Indian National Airways, Limited.

(8) When the aeroplane is used on Government service including that of Their Excellencies away from Delhi, Indian National Airways, Limited, will be paid a detention allowance for the crew of Rs. 50 for each 24 hours they are absent from Delhi, subject to a deduction of Rs. 50 for each four hours of flight on any particular tour.

(9) Indian National Airways, Limited, will be permitted to use the aeroplane on their own business, subject to the requirements of Government as set out above. If in the course of this commercial flying, it is intended that the aeroplane shall be absent from Delhi for a period longer than 48 hours, prior intimation will be given by the Company to the Director of Civil Aviation to ensure that any projected use of the machine for Government service is not interfered with.

(10) No charge will be made by Government to Indian National Airways for use of the aeroplane on their own business up to a maximum of 60 flying hours a month, which free allowance shall be cumulative up to three months. In respect of any flying on the Company's business in excess of this total the Company will pay Government at the rate of Rs. 30 per flying hour.

(11) While being flown on the Company's business, Indian National Airways, Limited, will insure the Avro X against all risks when not in Government service including flying risk, third party risk and risk of damage on the ground for the value of £3,000, and they will indemnify the Government of India against all claims arising out of such use of the aeroplane. Indian National Airways, Limited, are not required to insure the Avro X against risks incurred while she is being flown or is away from Delhi on Government service, nor against risks incurred while the aeroplane is housed in Government hangar at Delhi.

(12) No charge will be made by Government for housing the aeroplane in the Government hangar at Delhi nor for landing and housing charges incurred while the Avro X is being used on Government service. Indian National Airways, Limited, will be required to pay the normal landing charges while the aeroplane is flying on the Company's business and the normal charges for housing in hangars including Government hangars other than at Delhi, while the aeroplane is being used on the Company's business.

(13) This agreement will have effect in the first instance for a period of 12 months.

**Mr. M. Asaf Ali :** I understood the Honourable Member to say that one of the engines was found to be out of order. Does it mean that the machine was available for evacuation on that day ?

**The Honourable Mr. D. G. Mitchell :** That was discovered after the pilot had gone some distance against strong head winds. He then realised that his machine was not up to full strength, and very wisely returned and had a further examination carried out. On the ordinary morning tests the machine had run up to normal revolutions and appeared to be all right when it left the aerodrome.

**Mr. M. Asaf Ali** : With reference to the agreement that has been laid on the table, may I know if any tenders were invited from other companies before the agreement was entered into, for the maintenance of this aeroplane ?

**The Honourable Mr. D. G. Mitchell** : So far as I am aware, no.

**Mr. M. Asaf Ali** : Why not ?

**The Honourable Mr. D. G. Mitchell** : It is not the sort of matter for which tenders are ordinarily called, and I doubt very seriously if anybody else would have tendered.

**Mr. M. Asaf Ali** : Are there any other companies in existence or are there not ?

**The Honourable Mr. D. G. Mitchell** : Not operating in Delhi, so far as I know.

**Mr. M. Asaf Ali** : What about the Himalayan Transport Company ?

**The Honourable Mr. D. G. Mitchell** : The Himalayan Transport Company was not at that time operating in Delhi.

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

**Mr. M. Asaf Ali** : Sir, may I ask another supplementary question ?

**Mr. President** (The Honourable Sir Abdur Rahim) : At this rate we will never finish these questions of which already there are more than one thousand, and it will be unfair to other Honourable Members who have put down questions if they do not get a chance at all.

**Mr. M. Asaf Ali** : I will ask only one more question, Sir. Are Government contemplating another agreement with the National Airways for maintaining both the old and the new aeroplanes of the Viceroy ?

**The Honourable Mr. D. G. Mitchell** : Yes, Sir.

**Mr. M. Asaf Ali** : Have they invited any tenders now ?

**The Honourable Mr. D. G. Mitchell** : No, Sir.

**Mr. M. Asaf Ali** : Why not ?

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

**Mr. M. Asaf Ali** : May I have the answer to my last question, Sir ?

**Mr. President** (The Honourable Sir Abdur Rahim) : The Chair thinks sufficient has been answered already.

#### CENSUS OF THE UNEMPLOYED PERSONS IN BRITISH INDIA.

265. \***Mr. M. Asaf Ali** : (a) Will Government be pleased to state the actual number of the unemployed among (i) educated middle classes, (ii) agricultural labourers, (iii) other labourers ?

(b) Are Government prepared to consider the desirability of ordering an accurate census of the unemployed in British India ?

**The Honourable Mr. D. G. Mitchell** : (a) and (b). I propose, with your permission, Sir, to answer both parts together. As the second part of the Honourable Member's question indicates, no statistics of the kind mentioned in the first part are available. The question of

collecting statistics is primarily one for Local Governments but, as has been explained on more than one occasion in this House, the Government of India do not believe that figures of any value could be collected in the absence of a system of financial benefits for the unemployed. An attempt was made at the 1931 census to collect figures of unemployed graduates but even this limited attempt to collect figures relating to educated person gave no satisfactory results.

**Prof. N. G. Ranga :** Have Government studied the report of Sir Tej Bahadur Sapru's Committee on middle class unemployment in the United Provinces ?

**The Honourable Mr. D. G. Mitchell :** I understand Sir Tej Bahadur Sapru's report has not yet been published.

**Prof. N. G. Ranga :** Will Government consider the advisability of making a preliminary inquiry at least into the unemployment that is prevailing in Centrally administered areas ?

**The Honourable Mr. D. G. Mitchell :** I do not see that an inquiry limited to such a narrow area will be of any great value.

**Mr. M. S. Aney :** Will the Honourable Member explain what he means by saying that a limited inquiry will not give any satisfactory results ? Was he unable to collect the figures ?

**The Honourable Mr. D. G. Mitchell :** If the Honourable Member will read the Census Report for 1931, he will find there all the information that he requires.

**Mr. N. M. Joshi :** May I ask if Government propose to provide financial benefits for the unemployed ?

**The Honourable Mr. D. G. Mitchell :** There is at present no such scheme in contemplation.

#### PROHIBITION OF RELIEF PARTIES IN QUETTA AND BALUCHISTAN AFTER THE EARTHQUAKE.

266. **\*Seth Haji Abdoola Haroon :** (a) Will Government be pleased to state why relief parties were not allowed in Quetta and Baluchistan soon after the earthquake which recently took place on that side ?

(b) Will Government be pleased to state what prevented them from recruiting men of the labour class from Sukkur, Shikarpur, Multan, Lyallpur, etc., forthwith, for saving the lives of thousands of people ?

(c) Was it not suggested at the very outset to begin digging work at Quetta for the benefit of the sufferers ?

**Mr. G. E. F. Tottenham :** (a) to (c). I think the Honourable Member will find answers to all parts of this question in the pamphlet "The Quetta Earthquake, 1935", copies of which have been sent to all Members of the House.

#### DISTRIBUTION OF PROPERTIES TO THEIR OWNERS IN QUETTA.

267. **\*Seth Haji Abdoola Haroon :** (a) In connection with the recent Quetta earthquake, will Government be pleased to state in what way they propose to hand over properties to the individuals of Quetta.

who have lodged their statements of losses with the District Collectors and Commissioners for securing their properties ?

(b) Do Government propose to form a Committee of officials and non-officials, without delay, with the co-operation of certain Quetta residents to undertake the task of handing over the said properties to the owners ?

**Mr. J. G. Acheson :** (a) The Honourable Member is referred to Chapter VI of the pamphlet "The Quetta Earthquake, 1935", a copy of which has been sent to him.

(b) In view of the arrangements already made the answer is in the negative.

#### EARTHQUAKE RELIEF MEASURES IN BALUCHISTAN.

268. **\*Seth Haji Abdoola Haroon :** Will Government lay on the table a statement showing the relief measures extended by Government in the earthquake smitten villages of Baluchistan up till now ?

**Mr. J. G. Acheson :** I would refer the Honourable Member to Chapters V and VI of the pamphlet "The Quetta Earthquake, 1935", a copy of which has been supplied to him.

#### GRIEVANCES OF THE PILGRIMS TO THE HEDJAZ.

269. **\*Sir Muhammad Yakub :** (a) Has the attention of Government been drawn to a printed report by Khan Bahadur Alhaj Muhammad Habibullah Khan, a retired Deputy Collector of the United Provinces and a prominent member of the Court of the Aligarh Muslim University, and others, dated the 16th April, 1935, addressed to the Chairman, Port Haj Committee, Bombay, with reference to "some grievances of pilgrims to the Hedjaz" ?

(b) Have Government taken any steps to ascertain and redress the grievances of the pilgrims to the Hedjaz, contained in the pamphlet mentioned in part (a) ? If not, why not ?

(c) Is it a fact that during the last Haj season, no dates of sailings were advertised at Jeddah ? If so, what steps were taken against the person or persons responsible for the negligence ?

(d) Is it a fact that there was no one to supervise the embarkation of the pilgrims at Jeddah during the last pilgrimage season ? If so, what action was taken by Government in this connection ?

**Sir Girja Shankar Bajpai :** Sir, with your permission, I shall answer questions Nos. 269 and 270 together. Government have seen the report referred to by the Honourable Member. The points arising out of this and other reports received by Government on the working of the arrangements for the Haj Pilgrimage during the last pilgrim season are under examination. Government propose to refer these to the Standing Haj Committee of the Central Legislature as soon as possible and hope that as a result of their own examination and with the advice of the Committee, it may be possible to remove defects that come to light.

**Sir Muhammad Yakub :** Will this investigation and consideration by Government result in some practical scheme before the next Haj season comes ?

**Sir Girja Shankar Bajpai :** We propose to hold a meeting of the Standing Haj Committee on the 21st of this month, and it will certainly be our endeavour to get the results out by the beginning of October which is well in advance of the next Haj season.

**Dr. Ziauddin Ahmad :** Will their findings be circulated amongst the Members of the Assembly ?

**Sir Girja Shankar Bajpai :** I shall consider that suggestion.

COMPLAINTS AGAINST THE OFFICERS ON S. S. "RAHMANI".

†270. **\*Sir Muhammad Yakub :** (a) Is it a fact that S.S. "Rahmani" cannot accommodate one thousand six hundred and one deck, 20 second class and 30 first class passengers allotted to it ? Do Government propose to reduce the number of passengers sanctioned for this boat ?

(b) Considering the grave complaints about the discourtesy and bad treatment on board the S.S. "Rahmani", do Government propose to order the shipping company concerned to remove all the officers against whom complaints are made ?

SCHEMES FOR RURAL DEVELOPMENT WORK.

271. **\*Mr. S. Satyamurti :** Will the Honourable the Finance Member be pleased to state :

- (a) Whether he has received the proposals from the Local Governments about the manner of spending the Government of India grant for rural development work ;
- (b) whether those schemes have been examined by the Government of India and they satisfy the tests laid down by the Honourable the Finance Member in his speech ; and
- (c) whether Government have issued or propose to issue any instructions to the effect that no expenditure is to be incurred by the Local Governments out of this grant, unless the schemes have been sent up to and approved by the Government of India ?

**The Honourable Sir James Grigg :** (a), (b) and (c). I would refer the Honourable Member to parts (a) and (b) of my reply to Mr. Basanta Kumar Das's question No. 162 and to the statement referred to therein.

**Mr. S. Satyamurti :** Sir, I will put only part (c) of this question, and not the other parts.

**The Honourable Sir James Grigg :** As regards (c), I think it is clear from the White Paper which has been laid on the table that every single scheme has been approved by the Government of India.

†For answer to this question, see answer to question No. 269.

**Mr. S. Satyamurti :** May I ask what steps Government have taken or propose to take to see that provincial Ministries do not use this money for electioneering purposes, in view of the elections next year ?

**The Honourable Sir James Grigg :** I may say, if it is necessary to answer a question of that sort at all, that in the case which my Honourable friend has in view, I made special inquiries from the Government concerned and that Government extremely resents that I should have even dared to pass on such a malicious insinuation ; for the rest we can rely on the sense of decency of Provincial Governments.

**Prof. N. G. Ranga :** In view of the fact that in the report circulated by the Government of India on this particular grant, special mention is made of the depressed classes for water facilities only in Bihar and Orissa and Madras, will Government consider the advisability of instructing the other Provincial Governments also to see that suitable provision is made for the provision of water supply facilities for depressed classes ?

**The Honourable Sir James Grigg :** I have not the slightest doubt that those Governments which are embarking upon water supply schemes,—which are practically all of them,—are fully aware of their responsibilities to the depressed classes in this matter.

#### ACCOMMODATION ALLOWED TO A DECK PASSENGER IN THE COASTAL PASSENGER STEAMERS.

272. **\*Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether they are aware that the rule providing a minimum space of six square feet for a deck passenger in the coastal passenger steamers causes great hardship ;
- (b) whether they have examined the actual working of the rule ; and
- (c) whether they propose to alter the rule so as to provide at least twelve square feet as minimum accommodation for deck passengers ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) There is no such rule in force.

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

**Mr. S. Satyamurti :** Is there any practice at all like that, actually providing only six square feet as the minimum space for passengers ?

**The Honourable Sir Muhammad Zafrullah Khan :** The rules actually lay down the minimum requirements but they are not as stated in the question.

**Mr. S. Satyamurti :** What is the minimum prescribed by the rules ?

**The Honourable Sir Muhammad Zafrullah Khan :** The minimum prescribed is from eight square feet to 15 square feet per passenger according to the length of the voyage and the season during which

the voyage is made. The ordinary prescribed minimum is now eight square feet per passenger, but for certain very short voyages the minimum is  $7\frac{1}{2}$  square feet.

**Mr. S. Satyamurti** : What is the answer to clause (b) ? Have they examined the actual working of the rule, and, are they satisfied that these minima are always provided in these voyages ?

**The Honourable Sir Muhammad Zafrullah Khan** : Since the introduction of these rules the purport of which I have already submitted, Government are satisfied that they are on the whole being adhered to.

**Mr. S. Satyamurti** : Not merely on the whole, Sir, but are they observed in each case, and does the Honourable Member know that even the exceptions might cause great hardship to the unfortunate passengers ?

**The Honourable Sir Muhammad Zafrullah Khan** : So far as the allotment of space is concerned, Government are satisfied that they are being observed : when I used the expression "on the whole", I merely wanted to safeguard against any charge being made that each individual passenger's case had not been examined with regard to each voyage ; that was the meaning of "on the whole" : occasionally there is restricted space, not because proper space has not been allotted but because some passengers are in the habit of taking too much baggage along with them in the space allotted to them ; but that is not a contravention of the rule on the part of the company ; and too great a restriction with regard to this matter might result in hardship to the deck passengers.

**Mr. S. Satyamurti** : What is the answer to clause (c) ? Will Government consider the suggestion of providing 12 square feet as minimum accommodation ?

**The Honourable Sir Muhammad Zafrullah Khan** : Government do not at present think that the rules do not provide for sufficient accommodation.

RESOLUTIONS PASSED AT THE INDIAN DECK PASSENGERS CONFERENCE HELD AT VIZAGAPATAM.

273. \***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether they have received copies of resolutions Nos. 8 and 9, passed at the Indian Deck Passengers Conference held at Vizagapatam on the 17th June, 1935 ;
- (b) whether they propose to take steps to improve the conditions of travel on the lines suggested in the resolution, and if not, why not ?

**The Honourable Sir Muhammad Zafrullah Khan** : (a) Yes.

(b) The suggestions made in the resolutions in question are under consideration.

**Prof. N. G. Ranga** : Are Government aware that conditions of supply of food for deck passengers are very bad indeed ?

**The Honourable Sir Muhammad Zafrullah Khan** : I do not think there is anything with regard to the supply of food in the resolutions referred to in the question.



**Prof. N. G. Ranga :** Are Government aware that there is no protection at all for deck passengers from rain or sun ?

**The Honourable Sir Muhammad Zafrullah Khan :** No, Government are not aware that there is no protection whatever from sun or rain.

**Prof. N. G. Ranga :** Are Government aware that the kitchens are situated close to the latrines there and are in a very unhealthy condition ?

**The Honourable Sir Muhammad Zafrullah Khan :** If that refers to all steamers with respect to third class accommodation, Government do not accept the allegation as correct.

**Prof. N. G. Ranga :** Will Government try to ascertain facts with regard to this in view of the fact that I myself had been a deck passenger and have had personal experience of this inconvenience ?

**The Honourable Sir Muhammad Zafrullah Khan :** If the Honourable Member will supply definite information on that point, Government will be only too happy to look into the question.

**BILL IN CONNECTION WITH THE FEDERAL RAILWAY AUTHORITY AND  
SETTING UP OF PROVINCIAL PUBLIC SERVICE COMMISSIONS.**

274. **\*Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether they are considering any proposal for a Bill in connection with the Federal Railway Authority to be placed before this House ;

(b) if so, when the Bill is expected to be brought before this House ; and

(c) whether there is any similar proposal with regard to setting up Public Service Commissions in all the Provinces ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) Yes.

(b) Possibly during 1936.

(c) No legislation other than that contained in sections 265 and 266 of the Government of India Act, 1935, is, I believe, required for the establishment of provincial Public Service Commissions.

**Mr. S. Satyamurti :** May I know if this Bill is going to be introduced during the cold weather Session or the autumn Session of next year ?

**The Honourable Sir Muhammad Zafrullah Khan :** I am at present unable to specify during which Session it will be possible for Government to introduce this legislation.

**Mr. Lalchand Navalrai :** May I know when these Public Service Commissions in the provinces will be set up ?

**The Honourable Sir Muhammad Zafrullah Khan :** That is for the provinces to say.

**Mr. S. Satyamurti :** May I take the answer to (c) to mean that, so far as all-India legislation is concerned, there is no need for all-India legislation ?

**The Honourable Sir Muhammad Zafrullah Khan :** That is the meaning.

**REPORT OF MR. K. P. S. MENON ON THE EFFECT OF THE MARKETING ORDINANCES ON INDIAN SETTLERS IN EAST AFRICA.**

275. \***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) the reasons why the report of Mr. K. P. S. Menon on the effect of the marketing ordinances on Indian settlers in East Africa was not published before the end of June ;
- (b) whether Government have made representations to the Kenya Government on the Kenya Bill ;
- (c) whether Government's attention has been drawn to the leading article in the *Hindu*, dated the 25th of June, 1935, on this subject ;
- (d) what steps, if any, Government propose to take to protect Indian interests in Kenya ; and
- (e) whether Government propose to consult this House on the question ?

**Sir Girja Shankar Bajpai :** (a) As in the case of Mr. Menon's report on Zanzibar, Government waited for the publication of the Report until the views of the Governments of Tanganyika, Uganda and Kenya were available.

(b) Yes.

(c) Government have seen the article referred to by the Honourable Member.

(d) and (e). As a result of representations already made by the Government of India, several important amendments have been made in the Bill that was first published. The Secretary of State for the Colonies has agreed that the provisions of the Bill, as passed by the Kenya Legislative Council, should not be brought into operation until he has considered it further. The Government of India will examine the Bill, as passed, and will then decide whether any further action on their part is called for. Government do not think at present that it will be necessary to consult the House.

**Mr. S. Satyamurti :** At a later stage, before Government make their final recommendations on this matter to the Governments concerned, will they be good enough to consult this House ?

**Sir Girja Shankar Bajpai :** I cannot give any undertaking on that point, because I do not know whether the House will be sitting.

**GRIEVANCES OF INDIANS DOMICILED IN SOUTH AFRICA.**

276. \***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) the latest position of Indians domiciled in South Africa ;
- (b) the grievances from which they are still suffering ; and
- (c) what steps, if any, they propose to take to redress these grievances ?

**Sir Girja Shankar Bajpai :** (a) For a comprehensive account of matters of comparatively recent interest relating to Indians resident in South Africa, the Honourable Member is referred to the annual reports of the Agent of the Government of India in the Union, copies of which will be found in the Library.

(b) and (c). The most pressing grievance of Indians arises out of disabilities connected with the occupation and ownership of land in the mining areas of the Transvaal. This subject is under investigation by a special commission which the Government of the Union of South Africa appointed on the 4th October, 1932, in pursuance of representations made by the Government of India. Administration of the licensing laws has also been the subject of complaints from time to time. The Government of India delegation to the first Cape Town Conference suggested an overhauling of these laws but this has not been found possible so far. Other grievances, primarily of an administrative character and local or individual in scope, are dealt with, as they arise, by the Agent of the Government of India in South Africa whenever his intercession is invoked or considered necessary by himself. The Honourable Member is, I am sure, aware of the efforts made by the Government of India on behalf of Indians in South Africa in the past. Their present and continuing contribution to this cause is the maintenance of an Agency in South Africa to watch over and assist in the solution of day to day problems and to promote, by all possible methods, that sympathetic understanding of Indian difficulties and Indian aspirations by the Government and people of the Union on which the redress of Indian grievances ultimately depends.

**Mr. B. Das :** Have Government not received so far the Feetham Commission's report, an extract of which has been published in the Indian press ?

**Sir Girja Shankar Bajpai :** Two parts of the Feetham Commission's report have been published, and I think copies have been placed in the Library of the House ; but those two parts do not complete the story : the third part is still awaited.

**Mr. B. Das :** Have Government examined these two parts and have they addressed the South African Government on these two parts ?

**Sir Girja Shankar Bajpai :** I think it will be premature for the Government of India to address the Government of the Union until the result of investigation of the whole problem has been published by the Commission.

**Mr. B. Das :** Has the attention of the Honourable Member been drawn to the press report which appeared in the *Statesman* and the *Hindustan Times* that the third part of the report will take time to be published and it will take a year or more ?

**Sir Girja Shankar Bajpai :** Not only do I take some interest in newspaper cuttings appearing on this subject, but the Agent in South Africa has instructions to report to us as occasion arises, regarding the progress of the Commission : and, as regards the information which my Honourable friend has imparted to me, I may enlighten him by saying that the completion of the third part of the report is shortly awaited.

**Prof. N. G. Ranga :** Are suitable facilities being provided to those repatriated Indians who wish to go back to South Africa because South India does not suit them ?

**Sir Girja Shankar Bajpai :** I do not think that that arises out of the answer that I have given.

ALLOCATION OF ASSETS AND LIABILITIES BETWEEN THE NEW ORISSA PROVINCE AND THE GOVERNMENT OF MADRAS.

277. \***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether there was any difference of opinion between the Madras Government and the Government of India on the question of the allocation of assets and liabilities between the new Orissa Province and the Government of Madras ;
- (b) what is the claim of the Madras Government ; and
- (c) what is the position of the Government of India ?

**The Honourable Sir James Grigg :** The Government of India have not yet formally considered these questions.

**Mr. S. Satyamurti :** I want to ask what is the claim of the Madras Government ?

**The Honourable Sir James Grigg :** I am not prepared to disclose that.

**Mr. S. Satyamurti :** May I know the reasons why ?

**The Honourable Sir James Grigg :** Because the matter is still under consideration.

**Mr. B. Das :** Is it not a fact that the Madras Government has been very grabbing in this matter ?

**The Honourable Sir James Grigg :** I will leave it to the two Honourable Members to settle between themselves.

**Mr. S. Satyamurti :** But neither Mr. Das nor I am the Finance Member of the Government of India.

**The Honourable Sir James Grigg :** I saw a good many accounts from Madras sources of what the view of the Government of Madras was, and I suspect the Honourable Member knows pretty well what it is.

**Mr. S. Satyamurti :** But what is the position of the Government of India ?

**The Honourable Sir James Grigg :** As I say, the Government of India cannot have a view yet, because the question has not yet been formally considered.

**Mr. B. Das :** I hope the Government of India will be just.

**Mr. S. Satyamurti :** To Madras also !

**FACILITIES ASKED FOR FROM GOVERNMENT BY AN AUTOMOBILE FACTORY IN INDIA.**

278. \***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether they have been approached by the promoters of an automobile factory in India to raise the import duties to a higher figure on motor cars and bodies ;
- (b) whether they have been requested to agree to the purchase of cars and lorries required for the army from the factory ; and
- (c) what other facilities Government were asked to provide and what the answer of Government was ?

**The Honourable Sir Muhammad Zafrullah Khan** : (a), (b) and (c). Government have received no such representations.

**DELAY IN THE PUBLICATION OF THE REPORT OF THE TARIFF BOARD ON THE GLASS INDUSTRY.**

279. \***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) the reasons for the delay of three years in publishing the report of the Tariff Board on the glass industry ;
- (b) what the advice was which Government acted upon in turning down the Board's recommendation for protection to the industry ; and
- (c) whether they are prepared to obtain and act on the advice of this House in this matter ?

**The Honourable Sir Muhammad Zafrullah Khan** : (a) I would invite the Honourable Member's attention to paragraph 4 of Government of India, Department of Commerce, Resolution No. 458-T. (14), dated the 22nd June, 1935.

(b) The Government of India were guided by the principles laid down in paragraph 1 (c) of the Resolution adopted by this House on February 16, 1923.

(c) No.

**Mr. S. Satyamurti** : If the Government say that in deciding this, they acted on the opinion of this House, may I know the reasons why they are not prepared to obtain and act on the advice of this House in this specific matter ?

**The Honourable Sir Muhammad Zafrullah Khan** : I did not say that, in deciding this matter, the Government of India acted on the advice of this House.

**Mr. S. Satyamurti** : The Honourable Member said on the Resolution of this House.

**The Honourable Sir Muhammad Zafrullah Khan** : On the principles contained in that Resolution.

**Mr. S. Satyamurti** : Is there any difference between the Resolution and the principles contained in the Resolution ?

**The Honourable Sir Muhammad Zafrullah Khan :** Yes, Sir ; there is a difference between the principles contained in that Resolution and the application of those principles to cases in actual practice.

**Mr. S. Satyamurti :** May I take it that in applying the principles they have departed from the decision of this House ?

**The Honourable Sir Muhammad Zafrullah Khan :** No, Sir ; Government claim that they are willing to accept the principles laid down in that Resolution, but they must be left to decide how to apply those principles to any particular cases, as it would be extremely embarrassing and would practically bring the administration to an end if whenever a question of the application of principles to particular cases arises the opinion of the whole House has to be taken rather than that the matter should be decided by the Executive Government.

**Mr. S. Satyamurti :** Will Government place the matter before the House for its opinion, and consider a change in their decision if the opinion of the House is against the decision of the Government ?

**The Honourable Sir Muhammad Zafrullah Khan :** No, Sir.

**Mr. S. Satyamurti :** Why not ?

**The Honourable Sir Muhammad Zafrullah Khan :** I have already given the reason.

**Mr. S. Satyamurti :** Because he wants to keep up the autocracy of Government ?

**The Honourable Sir Muhammad Zafrullah Khan :** No, Sir.

**Mr. M. Ananthasayanam Ayyangar :** Are Government aware that the Tariff Board Report is unanimous.....

**Mr. President (The Honourable Sir Abdur Rahim) :** Next question please.

NEGOTIATIONS FOR TRADE AGREEMENTS WITH THE IRISH FREE STATE, CANADA AND ITALY.

280. **\*Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) at what stage the negotiations for trade agreements with the Irish Free State, Canada and Italy stand ;
- (b) when their agreements are expected to be concluded ; and
- (c) whether they will be placed before this House and if so, when ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) and (b). The Honourable Member's attention is invited to the replies given to his starred questions Nos. 138, 189 and 209.

(c) Copies of such of the agreements as are eventually concluded with any of these countries will be laid on the table in due course.

**Prof. N. G. Ranga :** Is it not a fact, Sir, that we have an adverse balance of trade with Canada ?

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

**DIFFERENCES BETWEEN EUROPEAN AND INDIAN MEMBERS OF THE INDIAN MEDICAL SERVICE IN THE MATTER OF PAYMENT OF RAILWAY FARES.**

281. \***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether it is a fact that a Junior Indian Major of the Indian Medical Service travels first class on payment of full first class fare ;
- (b) whether a senior British Captain of the same service travels first class on payment of only a second class fare ; and
- (c) whether there are other such differences between Indian and European Members of this service, and if so, the reasons therefor ?

**Mr. G. R. F. Tottenham** : (a) and (b). I would refer the Honourable Member to the answer I gave on the 4th September, 1935, to Mr. V. V. Giri's starred question No. 116.

(c) The distinction is not one of race.

**Mr. S. Satyamurti** : I think, Sir, parts (a) and (b) have been answered. What is the answer to part (c) ? Are there Indian members of the service having this privilege, that is, of travelling first class on payment of second class fare ?

**Mr. G. R. F. Tottenham** : Certainly, Sir.

**INDIA'S BALANCE OF TRADE.**

282. \***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether they have noted that the balance of trade in recent years is not as favourable to India as it was before ;
- (b) whether they have examined this question, and if so, what their conclusions are ; and
- (c) what steps, if any, they propose to take to bring the balance of trade in India's favour ?

**The Honourable Sir Muhammad Zafrullah Khan** : (a) and (b). The Government of India have examined the question and they are of opinion that India's total balance of trade has not deteriorated in the past few years. If the Honourable Member has in mind the balance of trade in merchandise only, I would point out that the decrease in value of that balance may be entirely attributed to the fall in world commodity prices since 1929, but that measured in terms of the quantum of trade, the position in 1934-35 is comparatively better than the average of the three pre-depression years 1926-27, 1927-28 and 1928-29.

(c) In view of the fact that India's balance of trade is a favourable one, I presume that the Honourable Member wishes to know what steps are contemplated to increase that balance. The Government of India are at all times watchful of the interests of India's export trade and are prepared to take any steps which, in their opinion, are to its ultimate advantage. The Honourable Member will, however, realise that it is not within the power of the Government of India alone or of any other single Government to raise the world prices of primary commodities.

**Mr. S. Satyamurti :** I think I heard the Honourable Member say that the fall in the value of the trade may be due to the fall in world prices. What is the actual position, Sir ? Have Government examined the question, and have they come to any conclusion that this fall in prices is due to the fall in world prices, and not due to any other causes ?

**The Honourable Sir Muhammad Zafrullah Khan :** The Government of India have examined the position, and if the Honourable Member desires, and if you, Sir, will permit me, I am prepared to give him figures which would bear out what I say. Assuming that I have your permission, I shall proceed to give the figures. I am afraid the matter is a little bit complicated, but I shall try to make it as clear as possible. The average price levels of exports as measured by the Calcutta Index No. was 139 for the three year period 1926-29. The figure now stands at 76. There has thus been a fall of 45.3 per cent. in the value of exports. Corresponding indices for imports are 150 and 111. These figures represent duty paid prices, and after making adjustments on the average for 10 per cent. duties for the pre-depression period and 25 per cent. for 1934-35, the ex-duty indices will work out at 136.3 and 88.8. The result would be a fall, so far as the imports are concerned in the index prices of 34.8 per cent. That being so, without wearying the House too much with figures, if these falls are applied to the figures for exports and imports, the result would be as follows. The average of exports for these three years is 325.37 crores. If the fall in prices is applied, to this figure, (the fall is 45.3 per cent., and therefore if one has to work out the 55.47 per cent. of this figure), should have been 177.9 crores. The average imports for those years were 242.73 crores. That worked out with a fall of 34.8 per cent. in the imports, would give the figure of 158.2 crores. On these figures the balance in the quantum of trade should have been a favourable balance valued at 19.7 crores. Actually the balance of merchandise in 1934-35 was valued at 23 crores.

**Mr. S. Satyamurti :** Have the Government considered that this favourable balance of trade,—I am trespassing on the Honourable the Finance Member's portfolio perhaps,—but since the Honourable the Commerce Member is answering this question, I want to know, if the Government have considered that this balance of trade, such as it is, is kept up largely by the export of gold ?

**The Honourable Sir Muhammad Zafrullah Khan :** The figures I have given relate to merchandise alone.

**Mr. S. Satyamurti :** I am talking of the entire balance of trade. Has the attention of the Honourable the Commerce Member been drawn to the fact that that favourable balance of trade, such as it is, is kept up by the export of gold ?

**The Honourable Sir Muhammad Zafrullah Khan :** The entire favourable balance of trade is composed of merchandise and gold. If the Honourable Member means if I have seen the figures ; I have seen them.

**Mr. S. Satyamurti :** Will he take steps to see that, excluding gold, the favourable balance of trade, which is not certainly anything like what it was some time ago, is kept up ?



**The Honourable Sir Muhammad Zafrullah Khan :** In Rupees not. In the quantum of trade, yes.

**Mr. S. Satyamurti :** Do Government consider for their purposes quantum of trade is more important than rupees ?

**The Honourable Sir Muhammad Zafrullah Khan :** No, but I am giving the position as it stands. I do not wish it to be implied from my answers that Government consider that no efforts should be made to improve the balance of trade.

**Mr. S. Satyamurti :** May I know what are the steps they are taking.....

**Mr. President (The Honourable Sir Abdur Rahim) :** A question like this cannot be satisfactorily discussed by means of a supplementary question.

**Mr. M. Ananthasayanam Ayyangar :** One supplementary question, Sir ?

**Mr. President (The Honourable Sir Abdur Rahim) :** The Honourable Member cannot discuss this question in a supplementary question.

#### REFUSAL OF PERMISSION TO VISIT QUETTA FOR EARTHQUAKE RELIEF WORK.

283. **\*Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) the names of the persons and the institutions who applied for permission to visit Quetta for earthquake relief work ;
- (b) whether any of them was permitted to visit Quetta ; and
- (c) the reasons why permission was refused to them to visit Quetta for this purpose ?

**Mr. G. R. F. Tottenham :** (a) I lay on the table a list of applications made between June 3rd, and July 23rd. Having regard to the conditions which prevailed after the earthquake it is not certain that this list is complete.

(b) In addition to medical parties from Lahore, Amritsar and Karachi which worked at Quetta for a short time at the beginning of June, Mr. Hogg and fifty Rover Scouts from Lahore, were permitted to enter Quetta. More recently the Memon Relief Society (Calcutta) which had been doing good work in Karachi were offered permission to work in the rural areas near Quetta, but expressed their inability to undertake further relief work. Special facilities have also been given to religious bodies, as far as the state of the buildings warrant, to remove their books and other sacred objects and also to collect ashes.

(c) I refer the Honourable Member to Chapter IV of the pamphlet "The Quetta Earthquake, 1935".

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*Names of persons and institutions who applied for permission to visit Quetta for relief work.*

1. Ghanshamal, Karachi, for several representatives of Dera Ghazi Khan District.
2. 12 Sikh volunteers c/o Guru Singh Sabha, Karachi.
3. Dr. Hiralal, Meerut.

4. Amritsar Congress, 100 persons.
5. Sevasamiti Volunteers, Lahore, 20 persons.
6. Mr. H. Beal, Calcutta.
7. Vice-Chancellor, Aligarh University, party, no number.
8. 30 scouts from Sevasamiti, Jammu.
9. Punjab Congress Committee, no numbers.
10. Khan Bahadur A. A. Khan, Superintendent, Transportation, Railway, Allahabad.
11. N. W. Railway Accounts Union, Lahore, 2 members.
12. Relief Committee, Hyderabad (S.), 5 members.
13. Relief Committee, Hyderabad (S.), 20 members.
14. Relief Party, Nagpur, if services needed (no numbers).
15. Delhi Muslim Quetta Relief Committee (no numbers).
16. Sevasamiti, Delhi (no numbers).
17. Captain A. E. Fitzpatrick, Murree.
18. Punjab Provincial Congress Committee, 20 volunteers.
19. Dr. Rajeshwar Singh, Ghaziabad, U. P.
20. Mr. Hogg and 50 Boy Scouts, Lahore.
21. Public of Phularwan (no numbers).
22. Karachi Indian Brokers Association (no numbers).
23. Baba Kartar Singh, Lahore (500 volunteers).
24. Hindu Seva Sadan, Hardwar, (20 volunteers).
25. Mr. Niranjare Lall, Gangab, Sahcupur.
26. Jamiatulamai Hind, Delhi, 8 volunteers.
27. Major T. C. H. Shaw, Fern House, Murzapur Road, Ahmedabad.
28. Mr. Sewa Singh, Overseer, B. and N.-W. Railway, Musaffarpur.
29. Mr. S. M. G. Abbna Ali Khan, Alwar, Rajputana.
30. Mr. Nand Lal, Rangamahar, Ujjain.
31. The Kasht Nirawak Samiti, Agra, 10 volunteers.
32. Dr. Mehta Nandlal, Patna (party of doctors and engineers).
33. Vaish Orphanage, Meerut (3 persons).
34. Mr. P. Bharthi, Dinapore.
35. Mr. C. Franklin, Ex-Services' Association, Ajmer.
36. Mr. V. P. Chatterji, Calcutta.
37. President, Orphanage, Patiala.
38. Mr. B. F. Hunter, Khanpur Road, Ahmedabad.
39. The Delhi Territorial Troop (India).
40. Mr. E. A. Richards, Kurunegala, Ceylon.
41. Rohri Panchayat.
42. Mr. Rabindranath Mukerji, Benares.
43. 10 Boy Scouts from Bahrnich.
44. Mr. Namath Chand Ratra, Indore.
45. Baba Kartar Singh Bedi, Saharanpur (500 volunteers).
46. Sir Pheroze Sethna, Bombay, on behalf of Karachi Parsis.
47. Pribnidhi Maha Sabha, Rawalpindi, (20 persons).

48. Sewa Samiti, Mardan (2 doctors and 15 boy scouts).
49. Mr. H. B. Maiske, Sindi (G. I. P. Railway), District Wardha.
50. Dr. M. N. Sen, 93½, Bakul Bagan Road, Bhowanipar, Calcutta.
51. Assistant Secretary, Ramkrishna Mission, Belur, Howrah District, Bengal.
52. Mr. Mohamed Afzal, Jagir Lambardar, Mozang, Lahore, with 200 men and a qualified doctor.
53. Thakurdas Pribhdas Manghirmalani, B.A., LL.B., Advocate, Hyderabad (Sind).
54. Messrs. P. K. Mukherji and B. K. Chandra, C/o Mr. D. K. Roy, Main Hostel, Hindu College, Delhi.
55. Mr. P. N. Barhanpurey, C/o Yamunabai, Potfode, Dhantoli, Nagpur.
56. Memon Relief Society (Calcutta), Baluchistan Earthquake Relief Camp, Karachi.
57. Chaudhri Bansi Lal, M.L.C., Masti Gate, Lahore.
58. Mr. D. N. Nandanwar, Kostipura, Nagpur.
59. Mr. S. F. Lakhani, Narain Mahal, Hirabad, Hyderabad (Sind).

**Pandit Krishna Kant Malaviya** : May I know why the All-India Seva Samiti organisation of Allahabad was refused permission ?

**Mr. G. E. F. Tottenham** : The reasons are explained in the pamphlet. There were no special reasons that were applied to special parties or special people. The reasons were the same for all.

**Seth Haji Abdoola Haroon** : May I ask why, in the beginning of June, two or three days after the earthquake, a Karachi party was allowed to go to Quetta and that party was then returned by the authorities back to Karachi ?

**Mr. G. E. F. Tottenham** : I do not know exactly which party the Honourable Member refers to, but I have stated in reply to part (b) of the question that a medical party from Karachi did go and work in Quetta for a short time.

**Seth Haji Abdoola Haroon** : But they were asked to return to Karachi and not to remain in Quetta.

**Mr. G. E. F. Tottenham** : I do not know whether they were asked to return to Karachi or whether they returned of their own accord.

**Mr. Lalchand Navalrai** : May I know from the Honourable Member if parties are now freely allowed to go to Quetta for doing relief work ?

**Mr. J. G. Acheson** : I have no information, but I believe no parties have recently gone up in addition to those already present.

**Mr. Lalchand Navalrai** : But if any party wishes to go there ?

**Mr. J. G. Acheson** : It is a hypothetical question. All requests will be considered on their individual merits.

**Seth Haji Abdoola Haroon** : Is it a fact that the Memon Relief Party was permitted to go to Quetta after three months when their funds had been exhausted ? They had already finished their funds in Karachi and then the Government permitted them to go to Quetta.

**Mr. G. E. F. Tottenham** : I do not know.

**Seth Haji Abdoola Haroon** : Is it not a fact that, on account of barring the entry of people into Quetta for relief work, there have been heavy losses in the matter of both life and property in Quetta ?

**Mr. G. R. F. Tottenham** : No, Sir.

**EXCISE DUTY ON STEEL.**

284. **\*Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether their attention has been drawn to the report of the speech of the Chairman of the Tata Iron Steel Company at its last annual meeting, regarding excise duty on steel ;
- (b) whether they propose to remove the excise duty as early as possible ; and
- (c) if not, why not ?

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

(b) and (c). I would refer the Honourable Member to the record of the debates on the Iron and Steel Duties Bill in July and August, 1934.

**Mr. S. Satyamurti** : Do not Government make any progress ? We are referred back for years. I want to know the present position !

**The Honourable Sir James Grigg** : The present position is precisely what it was in 1934. I have got all the extracts here, and with your permission, Sir, I will read a short one :

“ The Commerce Member (Sir Joseph Blore) and myself (I was speaking) have both made our position in this matter absolutely clear, and if we went on paraphrasing and reiterating our views on that matter for a month I do not think we could make our position any clearer. Neither of us contemplate that this particular excise should form a permanent part of the fiscal system of this country. As to the time and circumstances in which it can be removed nobody can prophesy, but our desire and intention is that it should not be kept on a moment longer than it is necessary.”

**Mr. S. Satyamurti** : It is now one year. This was said in 1934, and has nothing happened in this one year for the Finance Member to give serious consideration to this question ?

**The Honourable Sir James Grigg** : In the first place, in matters of taxation, it is not usual to give advance notice of your intentions, and in the second place, the question of necessity is in the last resort one for the Government to determine.

**Mr. S. Satyamurti** : This excise duty is maintained merely for revenue purposes.

**The Honourable Sir James Grigg** : I have never heard of any excise duty being a protective duty before now. Quite the opposite.

**Prof. N. G. Ranga** : Is it not a fact that a very high dividend was declared last year ?

**The Honourable Sir James Grigg** : Does the Honourable Member want to increase the excise duty ?

**Prof. N. G. Ranga** : Is it not a fact that a very high dividend was declared by the Tatas at the last meeting ?

**The Honourable Sir James Grigg :** That seems to indicate that the excise duty is not felt as a hardship.

**Pandit Nilakantha Das :** Do Government contemplate the abolition of this excise duty when it will be financially possible for them to abolish the revenue duty ?

**The Honourable Sir James Grigg :** I meant precisely what I have said.

**Mr. M. Ananthasayanam Ayyangar :** What is the amount of excise duty recovered year after year for the last two years ?

**The Honourable Sir James Grigg :** I cannot say offhand, but I believe it was Rs. 11 lakhs in the partial period of last year.

**RESULT OF THE IMPOSITION OF AN IMPORT DUTY ON BROKEN RICE AND PROHIBITION OF IMPORTS OF RICE FROM SIAM, INDO-CHINA, ETC.**

285. **\*Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) the result of the imposition of an import duty of 12 annas per maund on broken rice ;
- (b) whether it has resulted in any appreciable increase of prices ; and
- (c) whether Government are considering the prohibition of imports of rice from Siam and Indo-China, and fixing of quota from Burma ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) and (b). The Honourable Member is referred to the reply given by me to parts (a) and (b) of his question No 194.

(c) No, Sir.

**Mr. S. Satyamurti :** Then the Government are not considering this question ?

**The Honourable Sir Muhammad Zafrullah Khan :** I believe I have explained the whole position in answer to the supplementary questions to the question referred to in my answer to parts (a) and (b) of the question. I gave reasons to show that the position was not such as to justify the kind of action suggested by the Honourable Member.

**Mr. C. N. Muthuranga Mudaliar :** With regard to the answer to part (b) of the question, may I ask the Honourable Member if the prices have not slightly fallen owing to the import of Siam rice during the month of August ?

**The Honourable Sir Muhammad Zafrullah Khan :** I have answered that question in the supplementaries. I laid on the table of the House a statement showing the prices up to the end of July, and then this question was put and my reply was that the figures with regard to the month of August had not become available and my reply is still the same.

**Dr. T. S. S. Rajan :** What about part (c) of the question, the fixing of a quota from Burma ? What is the answer to that question ?

**The Honourable Sir Muhammad Zafrullah Khan :** The answer was "No".

**Mr. S. Satyamurti :** With regard to the fixing of a quota from Burma, are Government considering it ?

**The Honourable Sir Muhammad Zafrullah Khan :** No.

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

**TERMS OFFERED FOR THE TRANSFER OF BRITISH SERVICE OFFICERS TO THE INDIAN ARMY.**

286. **\*Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) the reasons why they have offered attractive terms for the transfer of British Service Officers to the Indian Army ;
- (b) whether these terms are offered by the Army Council without consulting the Government of India ; and
- (c) if they were consulted, what their opinion in the matter was ?

**Mr. G. R. F. Tottenham :** (a) The Honourable Member's attention is invited to the reply I gave the other day to Mr. Ananthasayanam Ayyangar's starred question No. 170. It is true that, in order to increase the area of selection, certain conditions, which are normally imposed in the case of transfers, have been relaxed, *e.g.*, the age limit and the time within which officers must qualify at certain examinations, but financially the terms are exactly the same as they have always been.

(b) No. The terms were formulated by the Government of India, and sanctioned by the Secretary of State. The Army Council had considerable difficulty in sparing the officers and went out of their way to do so in order to meet Indian requirements.

(c) Does not arise.

**DAMAGE BY EARTHQUAKE AND RE-BUILDING OF QUETTA.**

287. **\*Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether they have considered, or are considering, the question of the continuance of Quetta as a civil and military station either on the present scale or on a reduced scale ;
- (b) the actual extent of damage to Government in the Civil and Military Department by the earthquake ; and
- (c) the expenditure proposed to be met by the Government of India for re-building Quetta either at the present or on some other site ?

**Mr. G. R. F. Tottenham :** (a) The Honourable Member's attention is invited to Chapter VIII of the pamphlet "The Quetta Earthquake, 1935". The matter is under consideration.

(b) and (c). The Honourable Member's attention is invited to my reply to Seth Haji Abdoola Haroon's starred question No. 163 on the 6th September, 1935.

**Mr. S. Satyamurti :** Was an estimate of expenditure given then ?

**Mr. G. E. F. Tottenham :** If the Honourable Member would read the reply that I gave on the 6th September, the answer was :

“ The present estimate of the cost of reconstruction, which must necessarily be extremely rough, is between Rs. 7 and 8 crores.”

**Mr. S. Satyamurti :** May I know whether Government have considered, or are considering the means of finding this money ? Are they going to raise a loan ?

**Mr. G. E. F. Tottenham :** I think that question should be addressed to the Honourable the Finance Member.

**Mr. S. Satyamurti :** Have Government considered the question of the site ? Have they come to a conclusion on that point ?

**Mr. G. E. F. Tottenham :** No. The matter is still under consideration.

**Seth Haji Abdoola Haroon :** Is it possible, in the present state of the Government's finances, for this amount of Rs. 7 or 8 crores being spent on the reconstruction of Quetta ?

**Mr. G. E. F. Tottenham :** I think that question ought to be addressed to the Honourable the Finance Member and not to me

**Seth Haji Abdoola Haroon :** Are Government aware that I read day before yesterday an article in the *Statesman* that Karachi is a more suitable place for the Western Command than Quetta. Is not Karachi a more suitable place for the purpose ?

**Mr. G. E. F. Tottenham :** I do not know what the Honourable Member read in the paper the day before yesterday.

**Mr. S. Satyamurti :** May I ask the Honourable the Finance Member how he proposes to get this amount of Rs. 7 or 8 crores ? Does he propose to consult this House on the need for spending, and the means of raising this money ?

**The Honourable Sir James Grigg :** I would repudiate the suggestion that the question of the future policy regarding Quetta is a matter for me to bring before this House. The question of raising money will, in so far the expenditure is votable, be brought before this House, and, in so far as it is non-votable, it will not.

**Mr. S. Satyamurti :** May I ask whether the policy of re-building Quetta either on the present site or on the neighbouring site will be placed before this House at any time before the Government make up their mind ?

**The Honourable Sir James Grigg :** That is not for me.

**Mr. S. Satyamurti :** May I ask the Honourable Member, Mr. Tottenham, whether Government propose to consult the opinion of this House on the important and costly proposition of re-building Quetta, either on the present site or on the neighbouring site, which, I understand, is going to cost eight crores of rupees ?

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**Mr. G. E. F. Tottenham :** There is a Resolution on the paper on this subject ; and if Honourable Members opposite would agree to allow that Resolution to be discussed instead of the one they have themselves put

down for the 19th, the House would have an opportunity of expressing its opinion on that point.

**Mr. S. Satyamurti :** What Resolution ? Is it a Government Resolution ?

**Mr. G. R. F. Tottenham :** There is a Resolution tabled by my Honourable friend, Seth Haji Abdoola Haroon, recommending that Government should not re-build on the existing site.

**Mr. S. Satyamurti :** What is Government's position ? Are they going to consult this House by means of a motion of their own on the question of re-building Quetta, either on the present or on the neighbouring site ?

**Mr. G. R. F. Tottenham :** I have nothing to add to what the Honourable the Finance Member said about that.

**Mr. S. Satyamurti :** When I ask the Army Secretary, he refers me to the Finance Member, and when I put the question to the Finance Member, I am told that the question should be put to the Army Secretary. I don't care who answers it. Somebody must answer it. Let the Home Member answer that. I don't mind.

**The Honourable Sir Henry Craik :** The question is under consideration.

**Mr. S. Satyamurti :** Is the question of consulting the House also under consideration ?

(No answer.)

**Mr. S. Satyamurti :** Silence is the best answer ?

#### SHORT NOTICE QUESTION AND ANSWER.

##### ALLEGATIONS AGAINST BRITISH SOLDIERS STATIONED AT JUBBULPORE.

**Mr. Satya Narayan Sinha :** Are Government aware whether the remark of the Honourable the Law Member in the Assembly the other day, while objecting to Mr. Satyamurti's motion for adjournment, regarding Benda incident, that the Court might hold that the soldiers acted in "self-defence", is likely to prejudice the course of justice, because the remark has emanated from a responsible person like the Honourable the Law Member ? Is it not a direction to the Court as to its findings in the case which it is trying at present ? If so, how do Government propose to make amends for it ?

**The Honourable Sir Nripendra Sircar :** Attention of Government has been drawn to an article in the *Hindustan Times*, which ended with a desire on its part that this matter should be taken up on the floor of the House by some M.L.A. and the arguments and language of which article including the wholly unjustified expression "indiscreet" have been reproduced in the question.

\* \* \* The expression 'indiscreet' has since been deleted under the orders of the Honourable the President."



The remark attributed to the Law Member is wholly misleading by reason of part of a sentence being reproduced after omitting what precedes and follows it.

The entire sentence is as follows :

“ We must take all theoretical objections and supposing that the Court finds, as a matter of fact, there was justification for the exercise of right of self-defence, and so on, it may not be a fact ultimately proved, etc.”

The remark as actually made is not capable of being perverted into a direction or even a hint to the Court as to its findings in the case.

The argument expressly stated to be based on a theory which may not be the fact as ultimately proved was necessary for showing that the matter was *sub judice*—a contention which was upheld by the Honourable the President.

**Mr. S. Satyamurti** : May I take it that the Law Member now categorically says that his statement is neither a direction, nor a hint, nor anything else to the Court ?

**The Honourable Sir Nripendra Sircar** : I see that my Honourable friend uses the word “ now ”. The question of “ now ” does not arise.

**Mr. Satyamurti** : Does he again ?

**The Honourable Sir Nripendra Sircar** : What is the question ? I am quite prepared to answer it.

**Mr. S. Satyamurti** : I am prepared to put the supplementary question, if you will permit me. Does the Honourable the Law Member say that again—that his speech that day was not to be construed by the Court as either a direction, or a hint, or suggestion of any kind ?

**The Honourable Sir Nripendra Sircar** : I have nothing to add. I said that the grossest perversion which may be applied to it does not lead to that conclusion.

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#### MOTION FOR ADJOURNMENT.

##### APPOINTMENT OF AN EUROPEAN BUSINESSMAN AS THE PRESIDENT OF THE INDIAN TARIFF BOARD.

**Mr. President** (The Honourable Sir Abdur Rahim) : I have received notice of a motion for the adjournment of the business of the House from Seth Govind Das, as follows : “ The appointment of an European (Sir Alexander Murray) businessman as the President of the Indian Tariff Board ”. I understand that the Honourable Member is not going to move it.

**Seth Govind Das** (Central Provinces Hindi Divisions : Non-Muhamadan) : I said that I am not going to move it.

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##### ELECTION OF MEMBERS TO THE CENTRAL ADVISORY BOARD OF EDUCATION.

**Mr. President** (The Honourable Sir Abdur Rahim) : I have to inform the Assembly that Dr. Ziauddin Ahmad and Dr. Bhagavan Das have been elected to the Central Advisory Board of Education constituted by the Government of India.

**Mr. President** (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the following motion moved by the Honourable the Home Member on the 5th September, 1935.

“ That the Bill to amend the Criminal Law be taken into consideration.”

**Pandit Govind Ballabh Pant** (Bohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, the case for this Bill rests mainly, if not exclusively, on the two pamphlets that have been supplied by the Home Department, one containing extracts from newspapers and other publications and the other containing the statements that were furnished by the Honourable the Home Member in reply to the Short Notice Questions put by Seth Govind Das. I submit that if anybody had ever a fantastic idea of raising a sky scraper on an arch of straw, he could not have hit upon anything better. Sir, look at the extracts that have been placed in this pamphlet which is headed “ A few selections from press articles made in connection with Press legislation ”. Sir, I reminded Honourable Members yesterday that there was no Press Act in force in this country between the years 1921 and 1931. I assume that the Government with their infinite resources, after making a microscopic examination of all the publications that have issued during this interval of ten years, have been able to cull together all that appears in this pamphlet.

**The Honourable Sir Henry Craik** (Home Member) : There are thousands.

**Pandit Govind Ballabh Pant** : Well, I do not know if they have anything up their sleeves. If there is anything secret in the dark which they dare not expose lest it should burn and evaporate in the light we cannot take notice of it. If they have anything else in their possession we do not know. What they have considered deserving and worthy of being placed before us is contained in this pamphlet. Sir, this pamphlet does not contain anything for the years 1922, 1923, 1924, 1925, 1927 and 1929. It does not contain anything for the Presidencies of Bombay and Madras or for the Provinces of the United Provinces, Bihar and Orissa, Assam, Central Provinces and the North-West Frontier Province. The extracts that have been given here are confined to the Provinces of Bengal and the Punjab and to the years 1926, 1929 and 1930 only. Sir, this general survey can lead only to one conclusion, namely, that the state of the press was never really as lamentable, scandalous and dangerous, ominous and disastrous as is now sought to be made out. Sir, what do these extracts contain, even as they are ? Before I do so I may tell the Honourable Members that so far as the United Provinces are concerned, I have read the Administration Reports issued by the Local Government and it is definitely, positively and unambiguously mentioned in those reports in the year 1923 and again in the year 1924 that the tone as well as the language of public press in the province improved considerably after the withdrawal and repeal of the Press Act. Sir, these stray extracts containing only a part of the article and being for the most part indifferent translations cannot be a safe guide ; but even if we take them at their face value, what do they indicate, and what do they prove ? The first nine extracts relate to the single district of Pabna in Bengal and were all published in the month of July 1926. When we proceed further, we find a number of descriptive articles. I have examined every article and I am satisfied that if this pamphlet is placed before any judicial

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tribunal, at least half of them will be declared to be perfectly innocent ; and that demonstrates unmistakably the mentality of those who have put them before us as the exemplars in support of this repressive piece of legislation. This pamphlet contains not only extracts from newspaper articles but also reprints from pamphlets, books, and cyclostyled and other posters. Well, Sir, I do not know how this Bill is intended or expected to reach cyclostyled posters, unless the Government have the intention of introducing an amendment at a later stage. Otherwise, so far as the present Bill goes, I do not see their relevancy. We find no jot or tittle smacking of Communism anywhere in it except in the cyclostyled poster or pamphlet. There is nothing in it that could amount to a direct incitement to violence, except one or two sentences from two articles from certain obscure papers which have revealed their existence for the first time in this pamphlet : and so far as communal dissensions are concerned, Sir, as I observed as many as nine concerning Pabna District were shot off within a week. We do not know what happened there at the time. Perhaps there was an immense excitement in those districts in Bengal then. I would like to know, Sir, whether, on the basis of these extracts, any responsible Government would dare to approach the Legislature for such a piece of legislation as they have placed before us after a lapse of nearly ten years. We were told the other day, Sir, that there were 4,600 newspapers and publications in this country. We are here making a survey of everything that emanated from the press, whether in the form of newspapers, or pamphlets, or posters or books or otherwise during the period of ten years. Remembering that some of these papers might be dailies, some weeklies, some bi-weeklies, some monthlies and so on, the number of publications must have amounted to millions if not to billions. Of these, the selections come to about thirty, and on those thirty, we are asked to penalize the press of this country for ever !

**The Honourable Sir Henry Craik :** There were hundreds more.

**Pandit Govind Ballabh Pant :** I do not know whether the "hundreds more" are merely in the brain or imagination of the Honourable the Home Member.

**The Honourable Sir Henry Craik :** No.

**Pandit Govind Ballabh Pant :** So far as the published papers go, he has placed before us only these. I presume that these are the worst samples that he could lay his hands upon, and I would ask Honourable Members to read them and to see what they are like. I have a definite impression, Sir, of the articles that I used to read in newspapers in 1908, 1909 and 1910 and I dare say from the recollections I retain very distinctly to this day that some of the papers then published had more objectionable stuff in one issue than what is contained in the whole of this pamphlet today. Well, Sir, this is the comparative state of affairs. I would like to know from the Honourable the Home Member the true state of affairs. He has told us that communalism has never been so acute in this country as it is today. Well what measures has he taken to put an end to that ? And if this is the result of three years' administration of the Criminal Law Amendment Act—namely, that communalism today is in its worst phase—then, I ask, why should he prolong and perpetuate the tortuous course which has resulted in this calamity ?

Then I would ask the Honourable the Home Member if he ever took action under section 153A in respect of these papers mentioned here, and whether he took any action under section 108 against the printer or the publisher of any of these ?

**The Honourable Sir Henry Craik :** If the Honourable Member refers to my speech in introducing the Bill, he would have found that repeated action was taken.

**Pandit Govind Ballabh Pant :** So far as I am aware, none of these persons were prosecuted for any of these writings.

**The Honourable Sir Henry Craik :** We cannot get at them.

**Pandit Govind Ballabh Pant :** That is an untenable proposition which I cannot accept. Sir, if the police are really so inefficient that you cannot get at the culprits, then you have no business to continue to employ them (Loud Applause), then you should disband your staff. Why do you engage this police force and impose taxation on us in order to keep them going, if you and they cannot get at the culprits ? (Hear, hear.) Sir, if your police force is designed only to get at innocent people, and if that is the purpose for which you are here, if your object merely is to frame these weapons and engines of oppression for innocent people, so that you may have some sort of fun and your police a ready handle and something by way of bait to book the innocent. The cat is out of the bag and I concede that this Bill will eminently and fully fulfil that object. Sir, I was just telling you that this bogey of communalism is a curious figment of the imagination : it has been sprung upon us with a view to frightening us. Sir, when I hear Members of the Government talking of a communal crash, I feel as though the chauffeur is losing hold of the brake and the crash is imminent. Perhaps, in some cases-- I do not attribute any malice or malignancy--the wish may be the mother to the thought. (Hear, hear.) But, whatever it be, I say, Sir, that if the Government feel that communalism is in its worst form, then we must be prepared for the crop which must ensue out of such open declarations from the most responsible quarters. (Hear, hear.) They may not want their prophecies to turn true, yet we must be on our guard. Sir, we had once a good, old sturdy gentleman as Commissioner in the place where I live. In 1924-25, as Honourable Members are aware, there was a recrudescence of communal trouble. Once he was having a talk with me and he told me : " Well, Pandit, there is too much of communalism these days. Why is it so ? " I said there are many reasons. He said : " No, no. It is very easy to put an end to it ". I said how ? He asserted : " Well, put me in charge of the worst district and I will see that communalism will come to an end ". I asked him how he would manage it ? He gave me a story. He said that in his younger days while he was the District Magistrate at a certain place, a Tahsildar approached him and told him that his Tahsil was on fire and that a communal outburst was inevitable. He told the Tahsildar that that was the first time when he had ever heard such a report and while directing him to see him the next day with the latest information, warned him in the following words : " If you repeat tomorrow that your Tahsil is still in a combustible state, then I will make an entry in your service book and report you for transfer from this Tahsil ". He told me that the Tahsildar approached him the next day and told him : " Give me time : things are improving ". He replied : " Very well, you can have some more

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time". The man went back to him the next day and said : " Everything is all right ' *Sub Khairiyat* '." That is how communalism can be put an end to. I say if you are determined to put a stop to it, you can do it. I do not want to make remarks of an unpalatable and unpleasant type. But I would ask the Honourable Members opposite to read of some of the letters published by Lady Minto that passed between Lord Minto and Lord Morley. I ask them to ponder over what Lord Olivier wrote in the article that appeared in the *Times* soon after he retired from the office of the Secretary of State for India. I ask them to read what Wedgwood Benn observed some time ago and I ask them to read what the Earl of Salisbury has said only recently. I would not say more. But, Sir, I would remind them that communalism is not the monopoly of this land. Wherever you have foreign domination, there is a natural tendency to foster all those forces which contribute towards the perpetuation of that domination. It is but natural. That does not, however, absolve us from the responsibility that we owe to our country. I am one of those who feel that if our enemies can outwit us, we are fools. If our enemies can beat us, they must be abler. But I do not want to be beaten by them in any way and on any score whatsoever. I am not putting this forward as an apology or defence for any failure or lukewarmness on our part. but I am stating only a fact because it is a fact. In this connection, I would remind the Honourable Members that only recently there was an outburst in Belfast. Belfast is not Dublin which is the capital of the Sinn Fein or Irish Free State; but it is Belfast, the capital of the favourite province of the superb Lord Carson. I will just read out to you what happened in Belfast from an extract that appeared in the *New Statesman and Nation* recently. It says :

" More than the usual political significance underlies the rioting which has developed in Belfast from the annual celebrations on July 12th of the Battle of the . . . . better known in Northern Ireland as the glorious twelfth. The newspaper reports which have reached England tell us only of this great fighting, the rioting, the looting, the burning out of a dozen Government homes, the deaths of five persons and the wounding of well over a hundred, the use of rifles, revolvers and machine guns by the police and finally the calling out of the military who were patrolling the streets with fixed bayonets and steel helmets returning the desultory fire of the snipers who lie hidden in the network of poverty-stricken slum streets of the York Street area."

This is what happened in Belfast last month. Belfast is the place where the catholics are in very small number and where the protestants dominate. So, let not our people be entrapped by any insinuations about communalism being worse today than it has ever been before. I, for one, honestly believe—and I claim to possess some knowledge of the people and some experience of the affairs of this country and it is certainly more intimate and reliable than what any Honourable Member opposite can acquire as none of them has a direct approach to the hearts, to the sentiments and to the convictions of people,—that the worst phase of communalism has passed. There is more of harmony today than there was at any time before, at least during the last ten years. But for a few self-seekers and those who can always be incited to promote hatred between communities, the heart of the country is sounder to-day than it has ever been before, and I am convinced that if artificial restraints are not devised which must tend to cause greater distrust and mistrust in the future, the present rate of progress will continue until we have reached the millennium and the haven which we all desire.

Sir, I would like to refer to some of the extracts which have appeared in other places. I do not know if the Honourable the Home Member is aware of the sort of literature that is published in England. Has he ever seen the extracts that appear in the pamphlets or articles there? I do not know if he has been reading the *Workers' Daily* or whether he has been reading the *Labour Leader* or whether he has been reading such like other papers. I see that there is more of Communism in a single issue of these papers than in all that you can collect here during the last ten years and yet they are not proscribed here and I am occasionally reading them. I will read out to you a few extracts from some of the pamphlets that have been published in England. These pamphlets have been published almost continuously and regularly by people who have taken pretty good care to keep themselves in the back-ground just as the imaginary dummy editors are supposed to be doing here. Well, Sir, now I propose to read from the Hansard and it is part of the speech delivered by the Attorney General of England in the last autumn session. He says :

" There is a corresponding leaflet with reference to the Navy, entitled ' The Red Signal ', which claims to be the organ of Communist sailors. I will trouble the House with a few illustrations, in order that Honourable Members may have in their minds the sort of incitements which are offered to members of His Majesty's Forces in this secret, underground fashion. *The Soldier's Voice* of October, 1931, invited its readers who were soldiers to understand that : ' The way to victory lies, not through voting, but through mass struggle. What is needed is a repetition of the general strike.' The issue of May, 1932, contained this passage : ' Let us use the knowledge of arms which they give us, when the opportunity presents itself, to overthrow their rule, and, in unity with our fellow-workers, to establish a free Socialist Britain.' In November, 1932, the same production said : ' We suggest that you, comrade reader, should make a beginning now in your unit. Get in touch with that other fellow in your lot who thinks like you. And then start in to convert the rest of your mates to your ideas. If you don't quite know how to begin, what about writing for advice to that Communist or member of the Unemployed Movement you used to know at home ? ' These are incitements addressed to and intended for members of His Majesty's Forces. *The Red Signal*, the organ of Communist Sailors, in October, 1932, said :

' They will put a gun in your hands. Take it and study the art of war. This knowledge is essential for workers in order to fight against the capitalists of their own countries, in order to put an end to capitalism.'

In May, 1933, it said :

' If war does come, then it must be turned into a civil war against the capitalist warmongers and their bankrupt system. We urge our comrades of the lower deck to get into touch with this great movement wherever possible.' "

Sir, I ask the Honourable the Home Member whether he has seen anything approaching this even within a hundred miles in this country. Has he seen such pamphlets being distributed in the Army anywhere in this country? Has he seen people taking any interest of this wicked and malicious sort? The Attorney General says in another place :

" The effect of the two or three prosecutions which have taken place in the last year or so has been to drive the chief offenders underground. A somewhat sly and almost skulking breed of inciter has come into existence. They are too shy or too cowardly to put their names and addresses to the literature which they are in the habit of producing."

The Attorney General again quotes from another paper :

" They say in *the Soldier's Voice* of May, 1932 :

' Leaflets were printed in English, French and Japanese and careful plans were laid for their distributions. They were strewn on parade grounds,

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stuck on walls and fences, put in the dance halls and cabarets frequented by men of the Forces, and many soldiers and sailors alike were surprised to find leaflets in their pockets or thrust into their hands.'

As I say, they are published anonymously by people who prefer to employ comparatively harmless and ill-paid persons to distribute them. The persons responsible for them have taken very good care to keep well in the background since the prosecutions of two or three years ago, when some of the offenders were properly dealt with under the existing law.'

He says further :

'Some one may ask : How much of it is there ? During the year 1932, there were 17 different subversive pamphlets. I do not mean 17 issues, but 17 different pamphlets of different titles—*The Soldier's Voice* is the one and the *Red Signal* another—containing such incitements as I have mentioned ; and in that year there were 20 places of distribution. In 1933 there were 11 different subversive pamphlets and 14 places of distribution. The pamphlets are distributed among members of His Majesty's Forces by methods such as I have described. They are thrown over the barrack railings, or pushed into the hands of soldiers or sailors in places of refreshment or in music halls ; and it is estimated that in each of the last two years something like 50,000 copies of these subversive pamphlets have been produced and attempted to be distributed for circulation among members of His Majesty's Forces.'

Sir, I have no desire to tax the patience of the Honourable the Home Member or those sitting opposite. I am not reading these passages because I approve of them or because I approve of the methods. What I want to impress on this House is this, that there is much more vitriolic, poisonous and combustible matter in circulation in England than here. Yet do the English people ever think of putting restraints like these on their Press ? Has it ever occurred to them that they should do anything of this sort ? The other day I was surprised to hear from Mr. Griffiths that there is no difference between the censorship of the cinema and the control of the Press. So far as my Honourable friend, Mr. Morgan is concerned, if he had said so, it did not very much matter, but when a gentleman in the position of a District Magistrate, one belonging to the Indian Civil Service, who has to try and dispose of cases of this sort shows such a confusion of thought, that is a conclusive argument as to why the executive should not be vested with these powers. (Hear, hear.) Does he not know, Sir, that the cinema is regulated and controlled all over the world ? Does he not know that in England, in France, in Canada, in Australia, in the United States and everywhere the cinema is subject to censorship ? Does he not know along with it that it will be against the Habeas Corpus Act, it will be against the Bill of Rights, it would be against the Magna Charta, if any Bill of this nature were introduced in the British House of Commons or the House of Lords for restraining the liberty of the Press ? Does he not know that it is against the fundamentals of the American constitution, and the House of Representatives or the Senate cannot pass any law that would interfere with the liberty of expression or freedom of association. (Hear, hear.) Does he not know that the Free State constitution contains laws of that type ? Does he not know that even in the Canadian constitution, you have laws of this nature ? Does he not know that these are fundamental rights to which greater value is attached than to anything else ? Does he not know that in the case of the cinema the criterion is simple—if the thing is obscene and vulgar, one can at once notice it ? If there is an objective standard of measurement and scrutiny, it is easy

for people to arrive at right conclusions. I admit, that so far as India is concerned, even the regulation of the cinema is governed by political considerations. We know that here even the cinema is used or abused for political propaganda and as an aid towards the perpetuation of foreign rule. The cinema containing the pictures of the Bombay Congress was actually proscribed! I ask the Honourable the Home Member, I ask those sitting on that side under which law, whether local or international, it is permissible. What was obscene, demoralising or vulgar in the pictures of the Bombay Congress? Can anybody justify it? Is that not proof positive of the fact that the executive at least in this land as it is constituted today does not deserve any exceptional powers?

Sir, I am aware even at this very moment of how the executive are behaving against the rules that they have themselves framed although they find a solemn place in their own manuals of Government orders. In my province, the elections for the district and municipal boards are in progress and the Congress has set up candidates. There is a rule in the manual of Government orders that no Government servant should take any interest in the elections so much so that none should even indicate his preference for any particular candidate. In flagrant contravention of this rule there is a regular conspiracy and crusade on the part of officials all over the province to shut out Congressmen and to put up and extend support to rival candidates. I know, Sir, even today efforts are being made to organise all the reactionary forces in almost all the provinces and certainly in mine and to recruit to the bureaucratic army the lame, the blind, the halting and the cripple, whose docility and subservience is not open to any doubt. Sir, that is what is going on under our very eyes today; and yet we are asked by the self same executive to have implicit confidence in them, so much so, as to surrender all our liberties to them.

Sir, let us look at the other pamphlet now. It contains the statements that were given in reply to Seth Govind Das' question. We find from this that security was forfeited in 17 cases, and Mr. Griffiths laid great stress on this. Well, Sir, what does it prove? Out of 4,600 publications security was forfeited in 17 cases. May I know what is the proportion? I think it comes to about 1.7 for 500 or about 1 for 300. Now, Sir, is there any profession anywhere in the world, is there any community, is there any class however noble and faultless it may be in which the number of defaulters and delinquents does not come at least to that limit? Look at the Honourable Members opposite; let them recall to their minds the Back Bay muddle of Bombay, the Lloyd Barrage scandal of Bombay, the Munitions Board scandal, the Mesopotamia muddle, and the like? Is it not a fact that even amongst the holiest of the holy there are people who have been found to be guilty, in a much higher proportion, of offences much more reprehensible? Then, Sir, why should not there be a law requiring every member of the Indian Civil Service to deposit a security of Rs. 10,000 for good behaviour and honesty? We have just before us the Benda incident which happened but recently and we know other cases in which the soldiers of the army have been held to be guilty of violent offences of a very serious type, and their proportion is much higher again than that of the newspapers whose securities have been forfeited. Why should not there be a law then requiring every soldier



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who is imported into this country to give a security of his pay at least for a year so that he may be kept in good behaviour ? Sir, I think it is implicit in the terms of the engagement of the Indian Civil Service and other Imperial Services that they will be faithful to the interests of this country. Yet many of us do not believe that all of them always behave accordingly. Then, Sir, if difference of views does not matter, why not appoint a Standing Commission consisting, for the matter of that, of Sir Zafrullah Khan, Kunwar Jagdish Prasad and Sir Nripendra Sircar, who will impose a fine or forfeit the security of those members of the Indian Civil Service who, in their opinion, are definitely proved to have been unfaithful to the interests of this country ? Just as members of the Indian Civil Service and other services are free to determine whether their critics have or have not excited disaffection or hatred towards them and will sit in judgment on us, why should not they trust their own colleagues of tried loyalty in the services and in Government to decide matters pertaining to them in relation to their loyalty to this country ? Are they prepared to do that ? If they agree I will be prepared to reconsider my position. But even the suggestion is giving offence to the Honourable the Home Member. He is tolerating it because he is in this House ; otherwise, the idea that three Indians, brown in colour and belonging to those races about which a very apt description was given by another fellow European, Mussolini, it is intolerable to him that we should ever think of these people sitting in judgment over him. Then, Sir, what can they expect from us ? After all, are we not human beings ? Have we no sentiments ? Sir, the Honourable the Home Member told us the other day that all murders were alike. I do not know, Sir, but does he exercise the power of reprieve ? Does he grant pardon in some cases ? If he does, does he make any distinction between one class of murder and another ? Otherwise how are these petitions of mercy disposed of ? And does he after all see no distinction between Kharag Bahadur murdering a rake with a view to protect the honour of a family and a rake murdering another person with a view to ravish his wife ? Would both stand on the same footing ? So far as my attitude towards terrorism is concerned, I do not want to make any declaration of faith, specially after the vulgar manner in which the statement of Mr. Asaf Ali was received by some of the Members opposite. I belong to the Congress : I have signed its creed, and those who do not believe my word receive from me nothing but contempt and I do not worry about what they think of me. But I should stress that there should be a sense of proportion, there should be a sense of proper perspective, which should never be lost. After all, even in the eye of the law, are all culprits alike ? Is there the same procedure for the trial of Europeans and Americans as for the trial of Indians ? Have we all forgotten the scandals that occurred about the rupture of spleen cases in the old days till the electric fan came to our rescue ? And I remember a typical case, a case which, whenever I think of it, causes me immense mortification. Sir, in 1924 there was a case of rape in Tundla. Some Anglo-Indian lads belonging to the Railway Department ravished some Indian girls. They were convicted and sentenced to whipping. Sir Henry Gidney, who is unfortunately not here today, then made a representation to Government, and to what purpose and with what end ? Not with a view to obtain their release, but his representation was to the effect that these meanest and most wretched

miscreants should not be whipped by the Indian who normally performed that duty but by a non-Indian. (*Cries of "Shame" from the Congress Party Benches.*) And what happened? That representation was accepted and accepted by whom? By one who had been the Lord Chief Justice and Lord Chancellor of England, the Viscount of Reading who was the then Viceroy of India. (*Cries of "Shame" from the Congress Party Benches.*) Sir, with this attitude of the head of the executive towards these matters, to dangle before us these things and to tell us that there is no danger of discrimination, that there is nothing but unadulterated justice to be the guide of their conduct, is to tell us something which our experience belies and which we know is not true. Now, Sir, with these experiences, when even a man of that position, with that training, with that knowledge of law and justice can behave like that, how can you ask us to surrender our liberties and our cherished and valued rights to the minions of law who do not know law and who indulge and revel in lawlessness? Sir, how can that be done by us or with our consent? How can we voluntarily commit suicide?

I have given you 17 as the number of cases in which securities have been forfeited. Along with that I will give you the other side of the picture. Even in this year, according to these figures, security was demanded from 71; and out of these only 15 could find security and 56 papers had to go out of publication. Similarly we find that 448 other papers went out of publication. What do we infer from this? That this is a most repressive and oppressive law. And how? Even according to the executive judgment, of those who had been running the presses, only 17 were found to be guilty: but there were more than 500 who were throttled, practically strangled at the outset and were not even allowed a trial. That is the greatest mischief of the repressive law. It falls more heavily on the innocent than on the guilty. There is no doubt that most, if not every one, of these 500 would have been helpful to themselves and to others had the road not been blocked against them at the very beginning. The other day, the Honourable Member from Midnapore told us that the methods of the Government were humane and that they wanted to protect the young men from the snare and the net of terrorism. Is this the way to achieve that end? Just see. You have deprived 500 men who were going to adopt an independent vocation for earning their livelihood of what was perfectly legitimate. If these 500 persons had been allowed to work, there would have been work for at least five more in each press and you would have encouraged the employment of at least 3,000 men if these presses had not been proscribed and if security had not been demanded. I remember what I read some days ago and again something over which my heart wept. There were seven vacancies in the cadre of constables in Patna and there were 2,000 applicants: and how were they treated? There was such a scramble that the crowd of applicants were subjected to a *lathi* charge. That is the state of unemployment in this country. Seven posts of constables draw 2,000 applications, and instead of giving them bread you give them stone and something worse than that—*lathis*. On the other hand people try to find out careers for themselves and where 2,000 men would have been engaged and would have been in a position to earn their living for themselves, you stand in their way and these 2,000 are thrown on the streets and on the lanes and on the by-lanes. Is it a surprise that some

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of them should take to methods that are desperate, howsoever harmful, howsoever injurious they may be to the larger interests of the country ? I am one of those who feel that methods of violence should not be encouraged directly or indirectly, not because I have any tenderness for this Government, which if I could I would break to pieces this moment, but because I feel that in the interests of my country, situated as we are, if the cult of violence spreads, we will be nowhere, and there will be no end to it and things will go on from bad to worse and from worse to worst. Therefore I would not be a party to anything that encourages such a thing directly or indirectly. But the etiology of the disease should be dispassionately studied in a detached spirit and if you want to root it out effectively.

The Honourable Mr. Griffiths told us that he was anxious to help the youth of the country. I do not at all doubt the sincerity of his declaration ; he also told us that his methods and the methods of this Government were humane. I was reminded of what I read the other day, that an internee had been sentenced to five years' rigorous imprisonment for having written an innocent letter which contained nothing objectionable, but because he had not obtained permission of the jailor for writing it. These methods are humane par excellence : but we on our part are unable to appreciate their humaneness. Has it ever occurred to Mr. Griffiths as to why there is so much of discontent in this country ? He must be knowing what Bacon said about the cure of sedition : he said " the cure of sedition lies in taking the matter out of it, and the matter consists of much poverty and too much of discontentment ". I think he knows that. Has it ever occurred to him why he is there ? Has it ever occurred to him as to what had been the role of the service to which he belongs ? Does he not know that more than 40 years ago a resolution was passed in the House of Commons in favour of simultaneous examinations for the Indian Civil Service in India and England ? But why was it not put into practice ? Does he not know that even today out of 2,500 in the superior Civil Services occupying the higher posts, and 5,000 holding the King's Commissions, the Indian is not one in five or one in six ? Does he not know that if foreign recruitment were stopped even today, many of those who find a blind alley facing them wherever they go will take heart again and be restored to the ways of peace and prosperity for themselves as well as for this country ? I would appeal to him to work towards that end and join hands at least with those who want to put an end to foreign recruitment to all the services in this country. Even if that much is done and it alone, which does not ensure Swaraj, I assure him that he will be providing an effective remedy towards ending terrorism in this country.

Mr. Griffiths has a fine name : it reminds me of Mr. Arthur Griffith, the founder, the father of Sinn Feinism, the first president of the Sinn Fein Republic, the leader of the deputation that went to Downing Street to hammer out the Irish Treaty in collaboration with Michael Collins, with persons as proud as Lord Birkenhead and persons as powerful, mighty and celebrated at that date as Lloyd George ; and Griffith succeeded in doing wonders. I hope Mr. Griffiths will take a

lesson from the name which has much to inspire and will do something to help the lot of the people in this country in reality ; and for that we will ever be grateful and thankful to him.

Sir, Mr. Griffiths told us that it was but logical that when an association is declared unlawful, then its funds must  
 1 P.M. be forfeited. Well, Sir, I was reminded of the logic of some of those pastimes with which Nero used to beguile himself in olden times. There were people known as gladiators in those days. Sometimes Nero used to apply a fixed number of lashes to the gladiators. If he died, the logical end was to throw him to the wolves ; if he did not die but blood came out of his nose, it was to set the wolves on him, but if neither of these two things happened but only his skin was split, then the logical treatment accorded to him was to strip off the skin with the knife, and Mr. Griffiths wants to see things to their logical perfection. But has it not occurred to him that even an unlawful association may have lawful activities ? Has it not occurred to him that there were and are Congress institutions like the hospital at the Swaraj Bhawan in Allahabad and the Prem Maha Vidyalaya in Muttra and Brindaban and various other useful institutions which did no more than humanitarian and constructive service ? So, it is not inconceivable that even unlawful associations may have activities which are beneficial to all classes and devoid of political taint.

Sir, I have taken much longer time, than I had intended and I shall now make only a few remarks as to the provisions of this Bill. As Sir Lawrence Jenkins said, human ingenuity has never hit upon anything more comprehensive than this, and he said that, Sir, about the Bill of 1910, and not about this Bill, which is much more wide and much more comprehensive in scope than the Bill of 1910. This is what Sir Lawrence Jenkins said about that Bill :

“ The provisions of section 4 are very comprehensive, and its language is as wide as human ingenuity could make it. Indeed, it appears to me to embrace the whole range of varying degrees of assurance from certainty on one side to the very limits of impossibility on the other. It is difficult to see to what lengths the operation of the section might not be plausibly extended by an ingenious mind. They would certainly extend to writings that may even command approval. An attack on that degraded section of the public which lives on the misery and shame of others would come within their widespread net. The praise of a class might not be free from risks. Much that is regarded as standard literature might undoubtedly be caught.”

Sir, the other day Mr. Morgan told us that we were irresponsible and lacking in a sense of responsibility, because we do not always see eye to eye with the Government. May I remind him, and may I also remind the Honourable Members belonging to the celestial service, as to what attitude they and the press they patronise adopted towards Lord Ripon's Government, when Sir Courtney Ilbert's Bill was on the anvil ? May I know what was their attitude when Sir Bamfylde Fuller submitted his resignation and when it was accepted by Lords Morley and Minto ? May I ask them what was their attitude when Mr. Montagu censored General Dyer for what he had done in Jallianwalla Bagh ? May I ask them what was their attitude even when Lord Irwin was conducting negotiations with Mahatma Gandhi which culminated in what is known as the Gandhi-Irwin Pact ? But, Sir, we are small men. I will not depend on myself, but I shall read out for the benefit of

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Members opposite the opinion of one who has been for seven or eight years the foremost man in the British Cabinet either singly or jointly or in the alternative, with Mr. Baldwin, I mean the Right Honourable Ramsay Macdonald. This is what he said :

“ The English-owned papers in varying degrees of aggressiveness are pro-English in the sense that they maintain the British ascendancy with all its privileges and are vigilantly anti-Nationalist.”

**Mr. F. E. James** (Madras : European) : What is the date ?

**Pandit Govind Ballabh Pant** : Of course, before he became the Premier of England. Has wisdom dawned on Europeans since ? Then I congratulate my friend and I hope he will support us :

“ They attack the administration with candour when it seems to be yielding to Nationalistic claims, and carry on an anti-Indian propaganda which causes much offence and which frequently, in the case of some papers, oversteps the bounds of public policy. In a land subject to severe press law, these papers ought to have been dealt with, for their tone and temper have undoubtedly added to that feeling of resentment which has been played upon by the agents of disorder and political crime. Their criticism too often takes the form of insults, and Indian papers pursuing the same recklessly mischievous course would undoubtedly have had the law applied to them.”

Sir, we are said to be irresponsible men. I will again venture to bring to the notice of responsible Members opposite, whether official or non-official, the unambiguous opinion of the same great man who was Prime Minister for a series of years and is now holding a position second only to that of Mr. Baldwin about the Press Law and Criminal Law Amendment Act :

“ Here lies the fault of the Indian Government. Its Press Act of 1910 and its Criminal Law (Amendment) Acts of 1919 are contrary to freedom of peoples and responsibility of Governments, and ought to appear on the Statute-books of no country.

In the first place a power of repression habitually enjoyed tends to develop a habit of mind in the Government which regards all effectively troublesome criticism as sedition, and it allows a Government which is always partly responsible itself for seditious conspiracy to avoid its own share of the blame and impose the whole upon the shoulders of its opponents. . . . The power and policy of repression do not make for tranquillity, but for repression and nothing more. . . . Every foolish Government would like to be able to exercise absolute authority when, in its own opinion, it thinks it ought to do so, but no people with any regard for liberty will give its Government such power.”—*I wish to bring the last few words to the notice of the non-official Members of this House.*—“ but no people with any regard for liberty will give its Government such power ”—“ Governments should be compelled to meet the growth of sedition by political wisdom and not allowed to burden other people with their mistakes, as the Indian Government does when it seeks to maintain order by its Press Laws and Rowlatt Acts.”

I will now read just two or three sentences from a speech delivered by Mr. Sheridan in the House of Commons as to the potency of the Press. He said :

“ Give me but the liberty of the Press, and I will give to the Minister a Venal House of Peers. I will give him a corrupt and servile House of Commons, I will give him the full swing of the patronage of office. I will give him the whole host of ministerial influence, I will give him all the power that place can confer upon him, to purchase up submission and overawe resistance ; and yet, armed with the liberty of the Press, I will go forth to meet him undiminished—I will attack the mighty fabric he has raised with that mightier engine. I will shake down from its height corruption, and bury it beneath the ruins of the abuse it was meant to shelter.”

Sir, one word more and I have done. These are the last two sentences from the Chapter on the Press from Mr. Ramsay Macdonald's book.

“The last chapter in the history of bureaucracies is repression. They pass away like an old monarch driven from his throne, hurling accusations of sedition against his approaching successor.” (Applause.)

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

#### MEMBER SWORN.

Maulvi Badrul Hasan, M.L.A. (Tirhut Division : Muhammadan).

#### THE CRIMINAL LAW AMENDMENT BILL—*contd.*

**The Honourable Sir Muhammad Zafrullah Khan** (Member for Commerce and Railways) : Sir, since the commencement of the discussion of this motion, the House has experienced a good deal of eloquence which has been expended in trying to establish that the measure with regard to the consideration of which the House is discussing this motion is so repressive, is so restrictive of the liberty of the subject, is so abhorrent to all notions of a liberal, representative and a civilised government that the House should throw this measure out at this stage. Sir, there was one sentiment expressed by the Honourable Member who spoke immediately before me with which I find myself in entire agreement and that sentiment was that he was afraid that on occasions there was a danger of a sense of proportion being disregarded. My object in intervening at this stage of the debate is to attempt, if possible, to bring the House back to a consideration of the merits of the measure itself divorced as far as possible from questions of sentiment and of passion. One is aware that one cannot rule sentiment and passion out of one's life altogether. They have their place but even there a sense of proportion would be extremely useful in keeping these matters within their due bounds. Sir, when I listened to the eloquent and impassioned speeches made by Honourable Members opposite in condemnation of this measure, I must confess that I was occasionally bewildered, as I could not discover the springs of that eloquence. During the course of the debate, however, there were two or three very illuminating flashes which did reveal some at least of the sources of all this flood of eloquence. For instance, one Honourable Member, I believe it was the Honourable Member who exhibits a limitless curiosity with regard to the actions and the intentions and the proposals and the designs of Government.....

**Mr. S. Satyamurti** (Madras City : Non-Muhammadan Urban) : They are so mysterious !

**The Honourable Sir Muhammad Zafrullah Khan** : Possibly to you. He for once exhibited an amount of curiosity which let one into the secret of a great deal of what has been said on the other side and the curiosity was this. The Honourable Member anxiously wanted to dis-

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cover from the Honourable the Home Member as to whether the Ministers of the Madras Government had or had not supported this proposed Bill.

**Mr. S. Satyamurti :** What is the answer ?

**The Honourable Sir Muhammad Zafrullah Khan :** As I have already said, the question was addressed to the Honourable the Home Member but whatever the answer to that question may be it certainly did supply—I might inform the Honourable Member that I do not know what the answer is—a clue to all the anxiety and to all the sentiment under which certain sections of the House opposite worked. Then, Sir, there was another illuminating flash and this time it was the Honourable Member against whom I had the honour to appear in the Delhi Conspiracy Case who said : “ how dare any elected Member vote in support of this Bill because elected Honourable Members dare vote in support of it only at the price of their seats ”. And then at a subsequent stage of his speech he informed the House that when that Honourable Member and his colleagues have walked across the floor of this House and are occupying the Benches now occupied by Honourable Members not one of whose actions can be attributed to any but a dishonest motive, those Honourable Members would then be able to dispense, not only with this particular measure in case it is placed on the Statute-book in spite of their vehement and concerted opposition, but also with all similar kinds of laws and enactments. That, Sir, revealed a very touching and pathetic degree of pessimism on the part of my Honourable friend and a great and immeasurable gulf of which he appeared to be conscious between his desire to walk over to this side of the House and occupy these seats and his estimate of any chance of his being able to do so, for it is perfectly obvious that no responsible Member would with regard to the future have made a declaration of that kind if he had the slightest hope that on some occasion or the other he may be called upon to give effect to that declaration. Before I go on to draw the attention of the House to the general features of this Bill, to which the Honourable the Home Member did draw the attention of the House in his opening speech but some of which have become rather obscure during the course of the debate.....

**Mr. S. Satyamurti :** They were obscure at the beginning.

**The Honourable Sir Muhammad Zafrullah Khan :** I may be permitted to deal with some—it would be impossible, within the limits of the time available, in spite of there being no time-limit, admissible to Honourable Members for their speeches, to deal with all of them—I said I might be permitted to go on and deal with some of the general objections raised on the other side to the enactment of this measure. One Honourable Member's objection was—at any rate that was the only one that I was able to discover, as his speech proceeded, more particularly when it drew towards its close—his objection was that he did not object so much—he did object to the terms of the measure—but he did not object so much to them as to the proposal to enact this measure permanently as a separate measure by itself. I believe it was the Honourable Member who told us stories about kings and jackals. But he will, I am sure, forgive me if I was entirely unable to follow that line of argument. He said : “ why don't you amend

the Penal Code ? Why don't you amend the Criminal Procedure Code ? Why do you bring this bunch of provisions in a separate Bill by itself ?" Well, I do not know whether it would be any greater satisfaction to the Honourable Member to see these provisions incorporated into the Indian Penal Code and the Criminal Procedure Code rather than being enacted separately.....

**Mr. A. K. Fuzlul Huq** (Bakarganj *cum* Faridpur : Muhammadan Rural) : Sir, I have not been correctly quoted.

**The Honourable Sir Muhammad Zafrullah Khan** : Sir, at this stage I can but rely upon my recollection, and I do assure the House that, if I have not correctly quoted the Honourable Member's criticism of this part of the Bill, it is because I could not correctly follow him ; but, so far as I was able to follow him—and I venture to think the record of his speech, especially the last portion of it would bear me out—that was the criticism that he advanced. If he now withdraws that criticism, I need not pursue it any further, except only to say this, that there are certain provisions in this measure which are, though of a permanent character, proposed to be left in a state of suspended animation till they are called to life by Local Governments, having regard to the needs of any situations that might develop. That is one out of several reasons why it has been considered necessary that, although this measure proposes to make certain changes in the permanent criminal law of the country, they are not proposed to be incorporated in the permanent codes. Another reason of course is that if, at any time, a situation arose when the then Government—whether it is constituted by Honourable Members opposite or by any other party or combination of parties—came to the conclusion that the circumstances justified such a course, they might be able to repeal this Act as an Act by itself, without having to seek for its provisions in the various parts of the Indian Penal Code or the Criminal Procedure Code.

**An Honourable Member** : How very clever !

**The Honourable Sir Muhammad Zafrullah Khan** : Sir, may I for a moment revert to the Honourable gentleman who has just paid me the compliment of telling me that I am proving very clever in advancing this reason. He made an appeal to me in the course of his speech with regard to certain experiences gained by me and a certain insight obtained by me into the methods of terrorists and certain other matters connected therewith in the course of the case in which we were engaged on opposite sides. He said that the experience gained by me in the course of that case would confirm his assertion that terrorists were not wont to carry on their activities, apart from their final manifestations—in offices which were labelled as such,—but that they worked in secret places. Sir, to that extent I am happy to be able to confirm the view of the Honourable Member. But there were certain other experiences and insights that I also gained in the course of the prosecution of that case. One of the pieces of information that I obtained, during the course of that case which was being tried during 1931-32, was that, in that one single case, the police were able to capture and to produce in Court as an exhibit a quantity of explosives that would have been sufficient to manufacture 360,000 bombs ! But apart from this terrifying knowledge that I obtained in the course of that case, there was another experience gained in the course of that case which has stood me in good stead in the course of this debate, and that experience was this. When my Honourable friend opposed me in that case—a very able and



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astute lawyer as he is—in the course of that case also, as he has done in the course of this debate, he was sometimes in the habit of expressing himself with great indignation and with a great exhibition of contempt for the position of the other side ; and at first I confess that on one or two occasions that attitude rather frightened me ; and, being in charge of the case on behalf of the Crown, I was afraid during those early exhibitions of indignation and contempt by my Honourable friend, that I had, probably, committed some unpardonable wrong which had been the cause of all this indignation. But, as our association proceeded, in the course of that case, experience forced me to the conclusion that, the more indignant my learned friend was and the more contemptuous he was towards the opposite side, the less conviction he had in his own mind that he had a good point to make.

**Mr. M. Asaf Ali (Delhi : General) :** That was a law Court.

**The Honourable Sir Muhammad Zafrullah Khan :** My Honourable friend says that that was a law Court. Sir, habits have a way of sticking on, once they have been formed (Laughter) : and, therefore, I rather drew comfort from the speech that my Honourable friend made condemning this Bill the other day, because, as his speech proceeded, the greater was his indignation, and the greater was his contempt for the opposite side, the less and less grew my fear that we were doing something which was so repressive as to negative all the canons of civilized government.

**Mr. M. Asaf Ali :** Habits stick on, don't they ?

**The Honourable Sir Muhammad Zafrullah Khan :** If I may refer to some of the general criticisms of the Bill, one of the criticisms advanced has been that when the Criminal Law Amendment Act, 1932, was introduced into this House by the then Home Member, he based the necessity for a measure of this kind entirely upon the existence of the Civil Disobedience Movement, that somehow or other the present Home Member and the Government of India are guilty of some kind of a Machiavellian design in trying to support the necessity of a measure like this on the ground of the triple threat to which the Honourable the Home Member made reference in his opening speech, namely, Communism, terrorism and communalism. As a matter of fact, one Honourable Member challenged the Home Member to show anything which was said on that occasion which would warrant the suggestion that even then this triple threat was in the mind of the then Home Member and that the Bill which subsequently became an Act was designed to meet that kind of threat. Now, in the first place, I would beg leave to observe that if during the course of the last three years Government have found that fresh threats have arisen and that a measure of this kind is useful for meeting those threats and that, therefore, it is necessary to enact it in a permanent form, it is no valid criticism of the provisions of the Bill to say that Government was not then conscious of the dangers to which a reference has now been made. But, apart from that, if it were necessary for the satisfaction of consciences of Honourable Members opposite to be assured that even on that occasion this triple threat was in existence and that it was contemplated that the measure would be helpful and useful in meeting that threat, I am able to assure them that that was so.

**Pandit Govind Ballabh Pant :** Was the Bill introduced on that account ?

**The Honourable Sir Muhammad Zafrullah Khan :** In the speech which the Honourable the then Home Member delivered in making the motion for reference of the Bill to a Select Committee, this is what he said. The speech was made on the 21st September, 1932 :

“ We have had in India a triple threat to peaceful progress,—Civil Disobedience, Communism and terrorism ; and though the main provisions of this Bill are directed against the first of these, I hope the House will not forget that the provisions relating to the Press will exercise a strong controlling influence over the movements of Communism and terrorism. Discontented elements will always tend to coalesce. Though on the surface these three are very different movements, behind the scenes there are certain contacts. Terrorism threatens Government by open force. The other two, Civil Disobedience and Communism, are more subtle in their methods, but possibly even more disastrous in their results, for their object is to destroy the whole basis of respect for authority and the traditional institutions on which society is founded. Thomas Carlyle, the historian of the French Revolution, spoke of our whole being as an infinite abyss over-arched by habit. That image seems to me to be vividly true in the conditions of India, where a crust has been formed—and at times we seem to see in a flash how thin that crust is—a crust has been formed over a great abyss by the labours of many generations which have found expression in the instinctive beliefs and habits of the people. Let us beware, Sir, lest the crust give way and we find ourselves precipitated into the abyss.”

To this has been added the danger that arises from acute communal friction. One Honourable Member was pleased to remark that communalism had at no stage been at so low an ebb as it was today. All that I can say is that my own experience unfortunately shows that that statement is not justified. I need not go further into the matter at this stage. One argument was put forward and it was repeated several times and statistics were quoted in support of it, that the Act had not been effective in stamping out the dangers which it was designed to meet and that consequently it ought to be allowed to lapse. He came to a certain stage when I was expecting that the logical conclusion of the argument, which was being developed by the Honourable Member, who put forward this contention, would be that he would ask for the repeal of the whole of the Penal Code. I was disappointed that he did not go on to press that logical conclusion.

**Mr. Bhulabhai J. Desai** (Bombay Northern Division : Non-Muhamadan Rural) : How is it a logical conclusion ?

**The Honourable Sir Muhammad Zafrullah Khan :** We were told by that particular Honourable Member that out of—I did not note the figures and, therefore, I can only give them roughly—62,800 murders committed in this country in a particular year, convictions had been obtained only in 17,000 odd cases. I was rather afraid that an argument might be put forward that that being so and the death penalty provided in the Penal Code for murder and the procedure for the trial of criminal cases provided for in the Criminal Procedure Code and the rules of evidence laid down in the Evidence Act not having proved equal to the situation which was created by this large number of murders and because of such a large number of cases having ended in acquittal, all these three Codes should be repealed as having failed in their object. But, Sir, that argument was not developed and it is a novel argument to me that if you enact a measure to meet a particular situation and if that situation is not completely met by that measure within the space of three years, it is undeniably established that there is no justification for continuing that measure. The application of such a principle to the great body of law that governs all civilized societies would leave us with very little law indeed.

[Sir Muhammad Zafrullah Khan.]

Now, Sir, may I go on to stress certain features of this Bill which I have said have been in danger of becoming rather obscure during the course of the debate. Government have been charged with a hunger for executive power, executive power which they would then misuse for the purpose of repression and oppression and all the other 'tions' to which reference has been made. Now, Sir, does an examination of the Bill now put forward reveal a mentality of that description? As has been stressed by Honourable Members opposite and as also appears from the quotation that I made only a few minutes ago from the speech of the then Home Member, the Criminal Law Amendment Act of 1932, although designed to meet all these dangers, was directed principally against the Civil Disobedience Movement which was then rife in the country. We have been assured by Honourable Members from the Opposite Benches that the Civil Disobedience Movement, though not ended—and they have been at pains to make it clear that it can never end or die—is for the moment, if I might again use the expression—in a State of suspended animation. Now, Sir, what were the provisions in that Act which were designed principally, almost entirely, to meet the dangers which the Civil Disobedience Movement threatened to create in the country? Those were sections 2, 3, 4, 6, 7 and 8.

**An Honourable Member :** Unlawful associations.

**The Honourable Sir Muhammad Zafrullah Khan :** The provisions with regard to unlawful associations were only complementary to the provisions contained in the Act of 1908. The substantive provisions that were then brought into force for the first time to meet the Civil Disobedience Movement were, as I have submitted, sections 2, 3, 4, 6, 7 and 8. Out of these sections, this Government thirsting for unlimited executive power which they want to use for the purpose of oppression propose to repeal sections 2, 3, 4, 6 and 8.

**An Honourable Member :** Eye-wash.

**The Honourable Sir Muhammad Zafrullah Khan :** It was not the view of Honourable Members when this Act was passed that these provisions were merely an eye-wash,.....

**Mr. S. Satyamurti :** They are all ugly.

**The Honourable Sir Muhammad Zafrullah Khan :**.....and were so harmless that the Government thirsting for executive power might throw them away without suffering any diminution in their power. Now, it is proposed to repeal those sections. Does that show that the Government is acting with the kind of motives that have been ascribed to it?

**Mr. S. Satyamurti :** Yes.

**The Honourable Sir Muhammad Zafrullah Khan :** Or that it wants to accumulate into its hands as much power as possible and then to hold on to that power once it has obtained it. Here is an instance where power which has been obtained is voluntarily sought to be discarded because the circumstances which it was designed to meet have for the moment at least disappeared or at least lost the greater part of their force.

**Mr. M. Asaf Ali :** So it was intended as a sop.

**Mr. S. Satyamurti** : A very great abdication.

**The Honourable Sir Muhammad Zafrullah Khan** : Honourable Members must give Government credit for being able to gauge the opinion in this House pretty accurately. (Hear, hear.) That being so, Government were under no delusion as to any sop with regard to these sections being thrown to the other section of the House. Government took this decision because they felt that at the present moment circumstances did not justify the continuance of these sections. They did it in the hope that at no time would it be necessary to re-enact provisions of this description. (Hear, hear.) If, unfortunately, it becomes necessary to revive provisions of this description Government would then be ready to discharge its duty.

**Mr. S. Satyamurti** : You will not be there then.

**The Honourable Sir Muhammad Zafrullah Khan** : Sir, my presence as a Member of the Government or my absence from the Government, I am sure would not make any difference.

**Mr. S. Satyamurti** : I am talking of the Government as a whole.

**The Honourable Sir Muhammad Zafrullah Khan** : I have already made observations with regard to the duty and the hopes of the Government which might be formed by Members opposite when their turn comes.

**Mr. S. Satyamurti** : Wait and see.

**The Honourable Sir Muhammad Zafrullah Khan** : That is what has been discarded from the old Act. Has anything been added ? Not a line. Has any fresh power been sought to be taken in this Bill which has been presented to the House ?

**Mr. S. Satyamurti** : Permanent measure.

**The Honourable Sir Muhammad Zafrullah Khan** : I am fully conscious of that. Have I betrayed any indication that I do not realise either the character or the scope of this measure ?

**Sardar Sant Singh** (West Punjab : Sikh) : Does the Honourable Member approve of substituting executive judgment for judicial judgment ? That is the main question.

**Mr. President** (The Honourable Sir Abdur Rahim) : Honourable Members will please show the courtesy of listening without interrupting.

**The Honourable Sir Muhammad Zafrullah Khan** : That was one general observation which I was anxious to make and that was one feature of the Bill which I was anxious to stress, namely, that that action of Government is a complete reply to this part of the criticism that Government are anxious to accumulate power of this description into their own hands. Now, Sir, I may be permitted to make some observations with regard to the various provisions which are sought to be made permanent without going of course into the details of those provisions. As Honourable Members are aware section 5 is designed to check, to stop the repetition of matters which have been considered obnoxious and the publication of which has been proscribed.

**Mr. S. Satyamurti** : By the executive.

**The Honourable Sir Muhammad Zafrullah Khan :** Section 5 itself is only complementary to the various provisions of the law which give the executive power to proscribe literature that may be obnoxious.

**Mr. M. Asaf Ali :** Whether it is obnoxious or not, it is proscribed.

**The Honourable Sir Muhammad Zafrullah Khan :** The question under discussion is not with regard to the power of the executive to proscribe literature. The question is whether conditions have arisen which require that in case the power of proscription is to be retained and is to be effectively exercised some further provision has become necessary. Now, Sir, it may be the experience of Honourable Members even on the Opposite Benches, it certainly must be the experience of a very large number of Members on that side that recently it has become the habit with a certain class of offenders to evade and to bring into contempt the provisions designed to stop the publication of offending literature by committing to memory portions of such proscribed poems or proscribed books or proscribed articles and then to repeat them from memory to large audiences and thus not only entirely to frustrate the object of the provisions designed to check the spread of such literature, but to cause a great deal more annoyance, a great deal more suffering than even the publication of the original book or poem or article. It has, therefore, become necessary that if Government are to discharge the duty laid upon them as a civilized government to protect cherished sentiments and ideals, the veneration felt for religious leaders and doctrines that the other provisions shall be supplemented by a provision of the description contained in section 5. As a matter of fact from various sections of the population there have been complaints, and grievances have been felt that during the last three years the powers given by section 5 of the Criminal Law Amendment Act have not been used often.

**Mr. S. Satyamurti :** Oh ! Oh ! How many instances.

**Mr. Mohan Lal Saksena (Lucknow Division - Non-Muhammadan Rural) :** Perhaps you were one of those who made a complaint to that effect.

**The Honourable Sir Muhammad Zafrullah Khan :** Another objection taken was to sub-section (2) of section 5. Sub-section (2), says that no prosecution shall be launched under subsection (1) of section 5 :

“ unless the Local Government has certified that the passage published, circulated or repeated contains, in the opinion of the Local Government, seditious or other matter of the nature referred to in sub-section (1) of section 99-A of the Criminal Procedure Code or sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act.”

And a grievance was made that here again it is a certificate from the executive that is required.

**Mr. S. Satyamurti :** That is the point.

**The Honourable Sir Muhammad Zafrullah Khan :** That, I am assured, was the point. I am glad that in this instance at least I did not misapprehend the point sought to be made. Now the criticism could have only two aspects ; either that no certificate should be required of this description, whatever may be the view of the Honourable Members with regard to sub-section (1), with regard to this point of procedure the criticism would be either that there is no need of a certificate and the Court before whom the case goes should decide whether the person who is

being proceeded against has or has not offended the provisions of sub-section (1) ; or,—and this I apprehend was the real point,—that it should not be the executive who should grant that certificate but it should be a Court of law.

**Mr. S. Satyamurti :** Sir, on a point of personal explanation, my point was that the decision whether the passage was seditious, or otherwise offended against the various other provisions should be vested exclusively in the judiciary and not in the executive. That is the only point.

**The Honourable Sir Muhammad Zafrullah Khan :** The criticism that I was trying to meet was with regard to sub-section (2), and not the general criticism that there should be no provision giving power to the executive to proceed against a person on the ground that he has offended in this respect. It was specifically against sub-section (2) and my reply is that the second aspect of the criticism is out of the question. You cannot say that the Court should first certify that this is an offending passage before the Court can try whether such passage has been offensive or not. The first criticism that there should be no such restriction has not much force for this reason that after all sub-section (2) is a restrictive section. All that it does,—and Honourable Members may not agree that it is very useful,—but all that it does is to check indiscriminate prosecutions. Honourable Members may think that that was not enough of a check or that it was not much of a check. But whenever the provisions of this sub-section are used they will be used to check the number of prosecutions.

**Mr. S. Satyamurti :** What is the function of the Court left then ? Has the Court any judicial function at all ?

**The Honourable Sir Muhammad Zafrullah Khan :** I have already explained that the object of this section is that once the powers have been used which are contained in other enactments and which are not at present under discussion, those powers shall be effectively used.

**Mr. S. Satyamurti :** By the executive.

**The Honourable Sir Muhammad Zafrullah Khan :** Even at the risk of repetition I will try to make that clear which Honourable Members opposite refuse to admit is clear, that whatever the justification for these provisions once a certain publication is sought to be checked the law shall not be evaded by other means which might cause far greater harm than the publication of the original offending document.

**Mr. S. Satyamurti :** Even if there is no offence committed.

**The Honourable Sir Muhammad Zafrullah Khan :** Then, Sir, before going on to the provisions relating to picketing, may I make one brief reference to the provisions, although they occur later in the Act, designed to meet certain kinds of activities of associations that have been declared unlawful ? I have said I shall make only a brief reference to these provisions for the reason that they have come in only for a brief criticism from the Opposition. I do not wish to imply that they are acceptable to them ; but I did apprehend during the course of the debate that their objection was far greater to the provisions with regard to picketing and the press than to those that are directed against unlawful associations. These provisions again are supplementary to the main provisions of the Act of 1908. Section 11 I am sure could not be objected to, not because

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I consider that Honourable Members think that the executive should rightly have the power to declare associations unlawful,—I know they object to that,—and the objection would naturally be directed against the main provisions which enable the executive to declare associations unlawful at all. All that this section does is that powers which up to a certain date the Governor General did possess of declaring associations unlawful, powers which all the Governors do possess at the present moment and which under the Devolution Rules were conferred upon the Local Governments and of which the Governor General was deprived, shall again be vested in the Governor General. Section 12 only concerns procedure. Section 13 is the section which made substantive provisions supplementing the provisions of the Act of 1908 and this section provides by its various sub-sections that once an association has been declared unlawful the executive shall have the power to take possession of the headquarters or the offices of the association, to seize and forfeit their moveables and to seize and forfeit the monies and securities belonging to them.

**Sardar Sant Singh :** You want to legalise dacoity.

**The Honourable Sir Muhammad Zafrullah Khan :** Now, Sir, here again whatever may be the criticism against the power to declare associations unlawful, so far as that stage is concerned with which this measure deals, that is to say, that you shall further have the power of seizing these funds and properties, the only question of a judicial nature that could arise, assuming that the Act of 1908 continued as it does continue in operation,.....

**Mr. S. Satyamurti :** Subject to repeal.

**The Honourable Sir Muhammad Zafrullah Khan :** .....the only question that could arise would be whether the property that was sought to be confiscated, the funds and securities that were sought to be confiscated, the building of which possession was sought to be taken as being the office of the unlawful association do or do not belong to the association and, therefore, are or are not liable to forfeiture. Before I go on to this aspect of the case, may I say one word with regard to the general nature of the activities of these associations? Once an association has been declared unlawful one of three results might follow. One is that that particular association might suspend or give up altogether the activities which have brought it within the mischief of the provisions of the Act of 1908. In that case the only action, provided that were established, that would follow would be a cancellation of the declaration of the unlawfulness of the association. Another result that might follow is that such a declaration might result in the association being dissolved in which case also the declaration would be cancelled,.....

**Mr. S. Satyamurti :** No, there is section 18 of the Act.

**The Honourable Sir Muhammad Zafrullah Khan :** .....and, in any case, its operation by the action of the members of the association would have been nullified in the sense that it has no association to operate upon, or a third result may follow and has very often followed; that the association's activities might be driven underground, with possibilities of greater mischief even than when the association operated in the open. If that happens and assuming that its activities were such as were of destructive

of the liberties of the population or a section of the population, it admittedly becomes the duty of the Government to see that the aspect that they have now taken on is dealt with and that the association is rendered harmless as was the object of the original declaration ; and the only provisions that the Government could consider as possibly conducing towards that result—and in the case of underground societies not always achieving their object, but the only provisions that could conduce towards that result—are provisions that are contained in section 13. As I have said, the only question that would then arise would be, are Government misusing their powers to take possession of the premises or to seize and confiscate the property of individuals or associations who have no connection with the association that has been declared unlawful : and with regard to that, the Act contains provisions that that matter can be settled on a representation being lodged before the principal civil Court of the district in which the seizure or the proposed forfeiture is likely to take place.....

**Prof. N. G. Ranga** (Guntur *cum* Nellore : Non-Muhammadan Rural) : In most cases these representations are not successful.

**The Honourable Sir Muhammad Zafrullah Khan** : That would be the result of the findings of the judiciary in which Honourable Members opposite have as great a confidence as the rest of the population has.

Before I pass on to picketing and the press, may I make another brief allusion to sections 9 and 10 which deal with matters of procedure : they have not been criticised in the House much, but there was some criticism of them by Mr. Satyamurti during the course of his speech. He said, here is something very oppressive in sections 9 and 10—certain offences have been made cognisable and non-bailable. Section 9 related to offences created by sections 2, 3, 4, 5, 6, 7 and 8 ; and as sections 2, 3, 4, 6 and 8 have disappeared, its scope has been limited to offences created by sections 5 and 7. As I have said, section 7, when it is enacted as a permanent measure, would not always be operative : it will be brought into operation only where circumstances justify it. Section 5 would continue in operation. In the case of section 5, the offence has not been made non-bailable, although it has been made cognisable ; and rightly so. For after all, when a reproduction of the publication of offensive matter takes place in the manner which the section is designed to meet, which particular individual is expected to go and lodge a complaint ? If such publication is to be made an offence, it follows as of necessity that it should be made cognisable. The offence, as Honourable Members will observe, has not been made non-bailable. Section 7 when it does constitute an offence, that is to say, when it has been brought into operation, circumstances having arisen justifying its bringing into operation, does make the offence both cognisable and non-bailable : cognisable for this particular reason that the offence contemplated by this section, that is to say, picketing, is directed against mostly, but not always, interference with business people.....

**Mr. M. Asaf Ali** : Who can always lodge a complaint !

**The Honourable Sir Muhammad Zafrullah Khan** : I am just coming to that. It might be said that there is no difficulty here : here is the individual who is annoyed and molested, whose business is being interfered with and who can go and lodge his complaint. But experience shows that



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picketing is a form of overawing people and forcing them into submission to proposals which they intensively dislike at heart ; for after all, if a man is willing to come into line with the proposals which are being forced upon him, there is no necessity for picketing. Picketing arises only where by subjecting the individual or a section of society to a peculiar form of annoyance and molestation, it is hoped that he or they may be coerced into taking a line of action which they would not otherwise adopt. That being so, that being the object of picketing, it is useless to expect that a victim of this kind of annoyance and molestation, which often continues through days and weeks, should incur the risk of greater annoyance and molestation, by going and making a complaint against the persons who are subjecting him to this kind of annoyance. It is, therefore, necessary, that an offence of this kind should be made cognisable.

Now, Sir, may I be permitted to make some reference to the two main provisions of the Act which are sought to be revived by this Bill, to which objection has been taken ? The first of these is, as I have said, picketing, which is provided for by section 7. Part of the criticism I have already sought to meet. That criticism was that Civil Disobedience, though not dead, though it can never die—I am careful to repeat this lest I should be misunderstood that the Honourable Members opposite had committed themselves to a position which might become embarrassing to them as a political party—yet it is at the present moment at a very low ebb, and that, therefore, these provisions are not necessary. My submission is that the same is the case with section 7. If the Civil Disobedience Movement is not active, section 7 is not active either, and it is not intended to make it active. When and if activities of that description are revived, Local Governments will have power to bring into operation section 7. So long as one side does not resort to activities which this section is designed to prevent, the section will not be brought into force. Another criticism was that the ordinary law is sufficient to deal with illegal picketing.....

**An Honourable Member :** Picketing by illegal means.

**The Honourable Sir Muhammad Zafrullah Khan :** Picketing by illegal means which I have briefly described as illegal picketing. That is begging the question. If picketing is resorted to by the adoption of illegal means the question begs itself : that is to say, the argument is this : there are certain provisions of the law which you can bring into operation to check certain kinds of picketing. Therefore, why do you want to take power under section 7 to check other kinds of picketing ? For the simple reason that other kinds of picketing do interfere very seriously with that cherished possession of the subject for which Honourable Members have shown such great solicitude. the liberty of the subject. It is the duty of all Governments having any pretence to civilized forms.....

**An Honourable Member :** Don't say civilized.

**The Honourable Sir Muhammad Zafrullah Khan :** .....to secure conditions which should enable all citizens to pursue their legitimate callings without being subjected to annoyances and molestations of this kind. It is all very well to say peaceful picketing.

**Mr. S. Satyamurti :** Yes.

**The Honourable Sir Muhammad Zafrullah Khan :** In the first place, however good the intention behind this kind of picketing may be, experience shows that picketing of this description soon develops into anything but peaceful picketing.....

**Mr. S. Satyamurti :** Because of rowdyism by the police.

**Mr. President (The Honourable Sir Abdur Rahim) :** Let the Honourable Member go on without interruption. It is very unfair.

**The Honourable Sir Muhammad Zafrullah Khan :** The object of this legislation is not to punish people at the later stages of this peaceful picketing when it ceases to be peaceful, but to prevent a state of affairs arising in which something will have been done upon which much graver punishment must necessarily follow, but the main object, as I have said, is to secure that every man shall be enabled to carry on his calling without interference and most obnoxious interference of the kind to which he is subjected in the name of peaceful picketing. Picketing of this kind interferes with the elementary right of the citizen, it interferes with the freedom of contract. It is said that criminal force is prohibited. So it is. It is said intimidation is prohibited, so it is, but what is not prohibited and what this section seeks to prohibit is half a dozen or a dozen men or even three or four men going and standing outside a shop, seeing a person approaching the shop to buy certain things from a shopkeeper and the shopkeeper willing to sell, and their jeering at the prospective buyer and the shopkeeper transacting the business, and this is what is described as peaceful picketing. Peaceful picketing often takes the form of jeering at and using insulting epithets both for the prospective customer and the shopkeeper, and human nature being what it is, this form of so-called peaceful picketing often develops into very much worse things. That is the experience of everybody. If you choose to shut your eyes to actual experience, I am afraid I cannot help to bring light to those who must keep the windows closed all the time round them. Sir, a quotation was made from one of Lord Morley's letters to the Earl of Minto. It was said what right have people who themselves shout from the housetops 'Buy British' to prevent other people from carrying on propaganda in favour of 'Buy Indian' ?

**Mr. S. Satyamurti :** That is Lord Irwin.

**The Honourable Sir Muhammad Zafrullah Khan :** I stand corrected. Nobody on this side of the House differs from that sentiment.

**Several Honourable Members :** Oh, oh !

**The Honourable Sir Muhammad Zafrullah Khan :** If every building in the country was placarded from top to bottom with placards saying 'Buy Indian', not the slightest objection could possibly be taken to that kind of propaganda by anyone on this side of the House.

**Mr. M. Asaf Ali :** Hundreds of prosecutions were undertaken on that ground alone.

**Mr. S. Satyamurti :** Hundreds of prosecutions have taken place.

**The Honourable Sir Muhammad Zafrullah Khan :** Honourable Members are aware.....

**Mr. President (The Honourable Sir Abdur Rahim) :** Honourable Members had their opportunity to speak. They ought to listen to the other side with patience.

**Prof. N. G. Ranga :** On a point of personal explanation, Sir. I think it is a legitimate form of parliamentary procedure to interrupt whenever it is possible.....

**Mr. President (The Honourable Sir Abdur Rahim) :** So far as the Honourable Member is concerned, he is always interfering and making it impossible for the Chair and for most of the Members of this House to follow the proceedings, and the Chair does not think it is fair. He must accept the ruling of the Chair that it is not the proper parliamentary behaviour to be constantly interrupting.

**Prof. N. G. Ranga :** I accept your ruling, Sir.

**The Honourable Sir Muhammad Zafrullah Khan :** As Honourable Members are aware, there is an *Explanation* appended to this section. I shall read out that *Explanation*, although I am sure that even in the absence of that *Explanation* the situation would be exactly the same as if that *Explanation* had been explicitly enacted, because the section does not even by implication make that illegal, which this *Explanation* declares expressly as perfectly legal. "Encouragement of indigenous industries or advocacy of temperance without the commission of any of the acts prohibited by this section is not an offence under this section, so that legitimate forms of propaganda, however intensively carried on are not sought to be restricted by the provisions of this section."

May I, Sir, now pass on to the portion which deals with the press ? It has been said that the press is the most potent instrument for the spread of knowledge, for the spread of culture and of civilization for bringing light into the dark corners of the life of the poor and ignorant people. Sir, I subscribe in the fullest degree to that general statement. As a matter of fact, a quotation was read out by one Honourable Member from Sheridan, who has described the press as a mighty engine. I accept it. But then, Sir, power, particularly great power, engines and more particularly mighty engines are sometimes liable to abuse. I hope that that also will not be denied, and if that is so, this power which may be used for good is sometimes apt to be used for evil, and it would be the function of a wise Government to devise such checks which, without unduly interfering with the beneficent activities of such a mighty engine, should safeguard society from the baneful activities of this mighty engine. To that principle no exception can be taken. I apprehend that the criticism was that the provisions which form part of this Act which is sought to be made permanent are unduly restrictive of the legitimate liberties of the press. Now, Sir, one comparison was made and it was stated that there were instances of not only liberty but even of the licence of the press in England, yet no restrictive powers had been found necessary there, and so why should we impose restrictions on the press here. I have spoken of licence, because the Honourable Member who read those instances himself said that he had not much sympathy with what had been said, he was not necessarily approving the subject matter but he was merely citing those instances to show what liberty or licence was allowed there. I have not had time to look up those instances since the Honourable Member concluded his speech, but I understand that those were instances cited in support of a restrictive measure which was then before the House of Commons,—Incitement to Mutiny Act, and therefore they lose their point from that particular point of view. But apart from that.....

**Pandit Govind Ballabh Pant :** A word of personal explanation, Sir. I did not argue that no sort of action is necessary where wrong is committed. What I was arguing was this that no power had been given to the executive to impose restraints on the press in spite of the existence of such licence. That was my point. (Cheers from Congress Benches.) I know that the discussion was in connection with a Bill which provided a sentence of three months for maliciously circulating such pamphlets. I have no objection to that.

**The Honourable Sir Muhammad Zafrullah Khan :** The only point that I was making was that licence of the kind referred to by the Honourable Member had been made punishable in England.....

**Pandit Govind Ballabh Pant :** It is punishable here.

**Mr. S. Satyamurti :** By Courts.

**The Honourable Sir Muhammad Zafrullah Khan :** I apprehend the distinction perfectly. I hope it has not been the experience of Honourable Members opposite during the very brief period that I have been a Member of this House that I have at any time failed to understand a point that they have been seeking to make. I will come back in a moment to the point which was sought to be made and which I did not intend to ignore as the second branch of the contention, but may I first interpose a remark ? Whenever Honourable Members in the course of their speeches and in the course of the debate on this motion were reminded that in most of the European countries liberty, especially the kind of liberty which was being pleaded for here, was much more restricted than it was in India, the retort from Honourable Members opposite was, we are not talking of countries where there are dictatorships, we are not talking of countries where there are non-democratic Governments, we are talking of a country which at least claims to possess a representative form of Government. Then they went on to cite instances from England in order to show that that was the only country with which conditions can stand comparison. But do conditions here stand comparison with conditions in England ? My contention is that in considering the provisions of a Bill of this description, you will have to consider all the circumstances which such a measure is designed to meet, not merely the word of the enactment, but also the conditions, the material to which they have to be applied, the state of society to which they have to be applied. Now, Sir, there are countries,—I will not more particularly specify any, but there are countries where voluntary restraints upon freedom of speech and freedom of the press are obeyed to such an extent that either no restrictive provisions of law are required to assure to persons who may become the object of the attentions of the right of free speech and the right of free press, the enjoyment of what was described by one Honourable Member as the repose of life, where it does not become necessary to impose any restriction by law, or the minimum restrictions suffice. There are such countries. There are countries where the sense of humour of the population itself would check any mischief that might be apprehended from propaganda of this description in other countries where conditions might be entirely different. As I said, allusion has been made to conditions in England. It has been said, Communism is preached in England far more openly and to a much larger degree than it is preached or attempted to be preached in India, they do not have provisions of this description, and why do you find it necessary to have

[Sir Muhammad Zafrullah Khan.]

provisions of this description? Yes, Sir, Communism is preached in England far more openly and to a far greater extent than it is done in India. It is generally done in the neighbourhood of the marble arch on Sunday afternoons in Hyde Park by preachers whose stock-in-trade generally consists of black flag and a stool to stand upon.

**An Honourable Member :** Red flag.

**The Honourable Sir Muhammad Zafrullah Khan :** Red flag, I stand corrected. Sir, I confess to an ignorance of the details of the insignia of associations and organisations which carry on propaganda of this description.

**Mr. S. Satyamurti :** Except the Union Jack!

**The Honourable Sir Muhammad Zafrullah Khan :** Certainly. It is preached openly, but what happens? When that kind of inflammatory speech is applied to the material which is available what is the result? People come on, they listen to this kind of language for a few minutes or longer, and in the end they laugh the speaker down in scorn. That is the safeguard.

**An Honourable Member :** Not always.

**The Honourable Sir Muhammad Zafrullah Khan :** People there make it unnecessary that laws of this description should be enacted. (Interruption.) Then, Sir, I believe it was my Honourable friend, Pandit Krishna Kanta Malaviya, who unfolded before the House a long tale of suffering, suffering inflicted upon the journalists and newspapermen by measures of this description. He seemed to be supremely unconscious of the suffering inflicted upon sections of the populace by the license of the press, by reputations destroyed or attempted to be destroyed, by peace of mind killed or attempted to be killed, and Government owe a duty both to the journalists and those who read the effusions of journalists. And their duty is to see that, whereas the press shall not be unduly restricted, no man's peace of mind shall be unduly constrained or interfered with by the publication of seditious or scurrilous literature in the form of newspapers and journals.

**An Honourable Member :** Prosecute them.

**The Honourable Sir Muhammad Zafrullah Khan :** Experience has shown very often that when prosecutions are undertaken for this purpose there is far greater publicity, there is far greater suffering that is inflicted as a result of the prosecution than is likely to result from executive action being taken to check the evil. (Interruption.) I am rather glad to find that my speech is troubling Honourable Members opposite to such an extent, because, after all, that is only proof of the fact that the arguments are going home. (Cheers from Official Benches.) That sometimes the exercise of liberty might degenerate into the exercise of license has only been too manifest more especially in recent years in this country. Sentiments are openly expressed, not that there is a desire to change this form of Government—that has been recognised and nobody can have any possible objection to that, it is a legitimate and laudable desire,—sentiments have been openly expressed that if it were possible for the speaker he would break this form of Government this moment. . . .

**An Honourable Member : Why not ?**

**The Honourable Sir Muhammad Zafrullah Khan :** . . . . .breakage always involves violence. (Interruption.) Then a judgment was quoted of a very eminent Chief Justice, the Chief Justice both of Bombay and of Calcutta, in support of the condemnation of this measure. May I be permitted to make a very brief quotation from that very judgment of that learned Judge ? He said :

“ Courts of law can only move on defined lines and act on information brought before them under limited conditions. It is not so with the executive authority. It would be paralysed if it had to observe the restrictions placed on the Courts. Its action can be prompted by information derived from sources not open to the Courts and based on considerations forbidden to them ; it can be moved by impressions and personal experience to which no expression can be given in a Court but which may be a very potent incentive to executive action. Government may be in possession of information which it would be impossible to disclose in a Court of law and yet obviously requiring immediate action. Therefore a jurisdiction to pronounce on the wisdom or unwisdom of the executive action has been withheld.”

Later on the same Honourable Judge observes :

“ Political conditions and reasons of State are the life blood of executive action but they have no place in a Court of law.”

I do hope that Honourable Members who made quotations from this judgment in support of the argument that the provisions of the Act, designed to check the activities of a certain kind of press were unduly restrictive, will be convinced by the arguments of the same Honourable Judge, for it very often becomes the imperative duty of Government to take executive action without submitting their action to the scrutiny of a Court of law.

Sir, one word more and I have done. One Honourable Member told us, whatever he meant by it—you want to establish peace and tranquillity. He said sometimes tranquillity may be the tranquillity of death but that what he wanted was the repose of life. As I said, whatever he might have meant by the repose of life, it is because Government are anxious to secure to all sections of the population the repose to which they are entitled—protection against unwarranted attacks, whether against their reputation or against their cherished beliefs or traditions or the ideals which they hold sacred, that Government have been forced to the conclusion that it is necessary to continue those sections of the present Criminal Law Amendment Act with regard to which there is a motion for consideration before the House now. Sir, Government by this measure seek to guard the repose of life and to check the turbulence of license. I support the motion.

**Mr. F. E. James :** After the speech of the Honourable the Commerce Member, I do not propose to do more than examine a few general principles on which we on this side of the House support the Bill and a few of the general objections that have been raised by Members of the Opposition. In the first place, I would lay down four general propositions in regard to the relation between the State and the public order and private liberty on which I believe we shall find common ground with the Members of the Opposition. The first proposition is that any State is justified in assuming to itself powers to deal with movements which are directed against the stability of the State, public security and the liberty of the individual. All the movements we have been discussing during these past few days are

[Mr. F. E. James.]

essentially movements directed against these three objects. The second proposition is that the State is justified in taking special powers, if the ordinary law cannot deal with those movements. I take it that even my Honourable friends on the other side would accept,—and it has been demonstrated amply during the course of the debate—that these movements are such as cannot be dealt with under the ordinary law. Those friends of mine who are lawyers know that the Indian Evidence Act itself has no parallel in the world.....

**Mr. S. Satyamurti :** It is one of the finest Acts.

**Mr. F. E. James :** ..... as an obstacle to the obtaining of convictions of palpable and known criminals. Perhaps that is the reason why my friend, Mr. Satyamurti, praises that amazing Statute. Now, the third proposition is that the State is justified in curtailing the liberty of the individual for the sake of the liberty of the community. My Honourable friend, the Commerce Member, has already referred to the existence of the Indian Penal Code which itself is a restriction upon the liberty of the individual for the sake of the liberty of the community. The final proposition which I would ask my Honourable friends to accept is that such special powers should not be of such a character as to stifle reasonable expression of opinion or to hinder the liberty of the individual to pursue his normal avocation. My Honourable friend, the Commerce Member, has already demonstrated that the system of picketing, which was part of the Civil Disobedience Movement and has now, as a result of that movement, come to stay in this country for social and economic purposes, is a system which aims directly at the liberty of the individual to pursue his normal avocation in life. If you look at these propositions from the point of view of the press, I suggest that there is no Honourable Member of this House who can affirm that the law as it stands today does not allow reasonable expression of opinion on the part of the press. If that is not the case, then why is it that since 1931, something like 700 persons, either journalists or owners of presses, have thought it worth while to start new presses, new periodicals or new newspapers? Does that look like strangulation? Does that look like interference with the liberty of the press? I am perfectly prepared to admit that control of any kind is regrettable but where it is necessary, it justifies itself. I am reminded of a conversation which I had with one of the most brilliant journalists in this country, the late Mr. Rangaswami Aiyangar, the Editor of the *Hindu*. Mr. Rangaswami Aiyangar shared this dislike, on principle, of any control of the press whatsoever. But, in the course of our conversation, I asked him what effect did these particular press laws have upon him as a working journalist. His answer was that "as far as I am concerned, and my articles, I feel just as free now as I was before those restrictions".

**Mr. S. Satyamurti :** He was opposed to the Press Act all the same.

**Mr. F. E. James :** He said : "The great difficulty with which I have to contend is that I have to be much more careful in examining the contributions which come from my correspondents in the mofussil; many of whom are correspondents only for a short time, and of whom many come and go and that is one of the great difficulties of the press today." My Honourable friends speak of the Press Law as though it is restrictive :

they speak of the press as though it has suffered some great hardship because of these restrictions. I would suggest to them that the press today is as free as it deserves to be. (*Cries of "Oh, oh"*.) The press of any country is as free as it deserves to be. In my country it deserves to be freer than in this country. To show why I make that statement, I would like to read a few extracts. I do not want to weary the House but I will read to you a few observations made by papers in this country in regard to the Quetta Earthquake and if any Member is interested he can have the names of the papers and the dates on which those articles appeared. Here is a paper in South India which, in regard to the Quetta Earthquake, stated that the Government kept the country ignorant of the facts; that the extent of the loss was due to an explosion of ammunition, and that the Relief Fund which was raised by His Excellency the Viceroy was being used for the defence of India. (*Cries of "Shame, shame"*.)

Here is another paper in South India :

"Hundreds of persons could have been saved, but the military did not pay adequate attention to the saving of life." (*Interruptions.*)

Here is another paper; this is in the United Provinces: It quotes instances to show the highly diabolical nature of the military administration. It states that the military forcibly took away money, that hundreds and thousands might have been saved, that the prohibition of entry into Quetta was in order to prevent the military from coming into contact with the general public, and especially the Nationalist Party. (*Laughter.*) Here is another paper, also in the United Provinces :

**An Honourable Member :** What is the name of the paper ?

**Mr. F. E. James :** *Gharib*, published in Saharanpur; this article appeared on the 11th June, 1935. This is what this paper alleged. (*Interruptions.*) Do not my Honourable friends want to hear them? (*Voices : "Go on, go on"*.) This is what is contained in this paper :

"White soldiers cut off the hands of half-dead women and took away their gold ornaments" (*Cries of "Shame, shame!"*)

Now, does that paper deserve to exist ?

**An Honourable Member :** Were they prosecuted ?

**Mr. F. E. James :** Here is another one, of the same month, and the following day :

"Women had to hand over their ornaments before they were allowed to be rescued. They were then subjected to immoral treatment, and the chastity of girls was molested." (*Cries of "Shame, shame!"*)

**An Honourable Member :** How many of these were prosecuted ?

**Mr. F. E. James :** I suggest, Sir, that illustrations like that indicate that the press in this country does not deserve to be as free as the press of my country, where (*Cries of "Oh, oh!"*) public opinion would in such cases have risen up against it. After all, the whole must suffer for the part (*Cries of "Oh, oh!"*)—that is the rule of law as well as the rule of life: and if there is a section of the press which can descend to such low depths as I have quoted, I suggest there is every justification for such control as is suggested in this Bill. (*Hear, hear.*)



[Mr. F. E. James.]

Now, Sir, I turn to one or two of the general arguments advanced by the Members of the Opposition against this Bill. The first argument that I noted was that this Bill, in any circumstances, cannot receive our sanction because the present administration is thoroughly bad. That was the argument used by my friend, Mr. Fuzlu Huq, mainly on the ground that he did not receive a reply to a letter ! But I suggest to him and to his friends that that argument begs the question. Whether or not the administration of this country is bad under its present rulers is a matter of opinion. Personally, I am not ashamed (interruptions), personally, I am not ashamed of the history of British administration in this country.

**An Honourable Member :** Of course you are not !

**Another Honourable Member :** Why should you ?

**Mr. F. E. James :** Sir, I am not ashamed of the administration of this country under present circumstances, and I only hope that when my Honourable friends come to power, they will do half as well.

**An Honourable Member :** Hurrah !

**Mr. F. E. James :** But I would point out to my Honourable friends, when they say they do not like the present administration, that they are going to be given an opportunity to change it. In fact, all the present occupants of the Front Benches over there will in a very short time give way to Ministers who will be responsible to this House ; and I would also point out to my Honourable friends that, in the provinces, which are so much criticised today, they will have plenty of opportunities of displaying their powers of administration. Sir, it is thus evading the issue to blame the present administration ; but that is a particular kind of manoeuvre which Honourable Members opposite have been continually pursuing for the last three days. Then, Sir, another argument is that these movements which we are seeking to deal with are the result of the dissatisfaction with the existing political and economic conditions. Now let us examine that proposition. Take the political aspect first. That kind of argument leads directly to anarchism. If you believe that, because you do not like the present political conditions, therefore, you should give a free rein to anarchical and revolutionary movements, then you are yourself admitting that what you really want is some revolution in this country to change the administration by force. My Honourable friend, Mr. Satyamurti, had the hardihood to say—" things will be all right when we get Swaraj ; give us Swaraj and then people will be free ".

**An Honourable Member :** Three cheers !

**Mr. F. E. James :** Sir, if my friend thinks for one moment that when he gets Swaraj and becomes the chief minister in Madras, terrorism, Communism and communalism will cease, then he lives in a fool's paradise. (Hear, hear.)

**Mr. S. Satyamurti :** Sir, my friend is a terrorist, and he knows more about terrorism than I do !

**Mr. F. E. James :** And I am afraid that is the only paradise he will ever reach. Now take the economic argument. Here I would like to express my agreement with some of the sentiments which have been uttered on the other side of the House.

**An Honourable Member :** Thank you.

**Mr. F. E. James :** Sir, I agree that the ultimate solution of the problem is to be found not merely in negative resistance but in the abolition of the conditions out of which these movements gain strength.

**An Honourable Member :** Thank you.

**Mr. F. E. James :** Yet, I would ask Honourable Members to consider what countries have solved their economic problems. Does that justify terrorism anywhere? Does that justify terrorism in my own country? Does it justify terrorism in the other countries where economic conditions are as bad as they are here? (Interruptions.)

**Mr. President** (The Honourable Sir Abdur Rahim) : Order, order.

**Mr. F. E. James :** And, furthermore, can Honourable Members say honestly that this Government or the existing Provincial Governments are indifferent to the great problem of economic conditions?

**Mr. S. Satyamurti :** They are—they are.

**Mr. F. E. James :** I shall only refer to the white paper that was laid on the table the other day by the Honourable the Finance Member on this subject.

**Mr. S. Satyamurti :** " Paper " after all !

**Mr. A. K. Fazlul Huq :** Sir, I would like to ask . . . .

**Mr. President** (The Honourable Sir Abdur Rahim) : Is it a personal explanation that the Honourable Member wants to make?

**Mr. A. K. Fuzlul Huq :** I rise on a point of information, Sir. My Honourable friend was referring to other countries in comparison with the condition of things in India. Will my Honourable friend tell this House the average income per head in India as compared with England and other countries? (Hear, hear.)

**Mr. F. E. James :** And will my Honourable friend tell me the average cost of subsistence in this country as compared with other countries in the West? Sir, when I was interrupted, I was referring to the white paper that was laid on the table the other day by the Honourable the Finance Member. I am told there is nothing in that, there is nothing for the uplift of the poor in that. Yet I make bold to say that in that document there is contained more hope for the villages than have been put forward for them by the Village Industries Association.

**An Honourable Member :** Hurrah !

**Mr. F. E. James :** Now, Sir, I would come to the second point under this head and that is the argument as far as terrorism is concerned. In this connection I want to say something about my Honourable friend, Pandit Krishna Kant Malaviya's speech. When I read that speech carefully I found that certain passages of it were definitely a laudation of terrorism and I will read the particular passages concerned. My friend need not rise to any personal explanation as he has already made too many of them. This is the first statement : " I plead guilty to the charge of admiration of terrorists." What is that but laudation? The second one is : " These are deeds of great sacrifice, deeds above the common run." Is that laudation or not?

**Pandit Krishna Kant Malaviya** (Benares and Gorakhpur Divisions : Non-Muhammadan Rural) : Please go on.

**Mr. F. E. James** : I know he is getting very uncomfortable. Now, this is the third statement : " I should be less than human if I did not admire deeds which exact my respect and admiration." Is that laudation or is it not ? He referred to Midnapore and he spoke of the Honourable Member from Midnapore, Mr. Griffiths. He asked him to trust the people and they would give up terrorism. May I ask him what happened to those three predecessors of his who trusted the people ? May I ask him what happened to the man who trusted the people in the Court, the man who trusted the people in the District Board's office, nay, that man who trusted the people on the football field ? They were shot down like rats. And yet he tells me that if the Member for Midnapore will only trust the people, the terrorists will give up their nefarious crimes. I suggest to my Honourable friend that he is beginning at the wrong end and I hope that when he spoke he was not speaking for the Party which is led by my distinguished friend, Mr. Aney. Sir, let me say straightaway that economic conditions are not at the bottom of the organisation of terrorism. These men who are at the back of the movement are, and have been, well supplied with funds for many years. They are not starving. Where do they get their recruits ? I will tell my Honourable friend, the Pandit, where they get them from. They get their recruits from speeches and writings such as those of my Honourable friend on the floor of the House the other day which are listened to by those whose economic future is dark or by those who have an unbalanced but sentimental attachment to the country of their birth. That is where they get their recruits from. I would appeal to my Honourable friend not to dabble in such motions as the one which he has tabled at the present time. There is nothing in that. If he is really honest and sincere in his endeavour to root out terrorism from the land, let him go to Bengal and offer his services unreservedly to the authorities in that province who are, on the one hand, engaged in the difficult task of stamping out terrorism and, on the other hand, engaged in the still more difficult task of reconstructing the economic life of Bengal. My Honourable friend is under a great misapprehension and so are the Leaders of the Congress Party if they think for one moment that the terrorists want to free this country either politically or economically. What the terrorists want to do is to terrorise the country and it does not matter which Government is in power. They will terrorise the Swaraj Government of the year after next exactly in the same way as they are doing now.

Now, Sir, there is the final argument which my Honourable friends on the other side have used always. They say that these movements do not exist—then why are you raising a bogey about them ? Terrorism, they say, is already being controlled and it is practically finished. The speech of my Honourable friend, the Member from Midnapore, is a sufficient answer to that and the facts which are published practically every day show the existence of it. But, I want to deal for a moment with the same argument in reference to Communism and here I would like to refer briefly to my Honourable friend, the *ex-Mayor* of Bombay and the *ex-President* of the Rationalist Association. Now, Sir, he used the argument that there were plenty of books about Communism and anybody could read of its general principles in them. What was the harm ? He did not think that it was

such a terrible thing that it had to be controlled by special methods. I would read to him, first of all, the aims of the Communist Party in India, at least some of them, and then their methods and then a number of extracts from the aims of the Communist International on which the programme of the Communist Party is based.

First of all, the Communist Party in India aims, among others, at the following :

" The complete independence of India by the violent overthrow of British rule. The cancellation of all debts. The confiscation and nationalisation of all British factories, banks, railways, sea and river transport and plantations.

The confiscation without compensation of all the lands, forests, and other property of the landlords, ruling princes, churches, the British Government, officials and money-lenders, (*Why they should go hand in hand, I do not know*), and handing them over for use of the toiling peasantry. Cancellation of slave agreements and all the indebtedness of the peasantry to moneylenders and banks."

Does my Honourable friend the *ex*-Mayor of Bombay still think that these are harmless notions ?

**Dr. G. V. Deshmukh** (Bombay City : Non-Muhammadan Urban) : The confiscation of debts they must have taken from England.

**Mr. F. E. James** : When my Honourable friend comes into authority and has to deal with these Communists, does he think that these powers will not be necessary ?

Now, Sir, here are some of the methods which are supposed to be used :

" To develop a general strike and convert it into a general political strike.

To develop the spontaneous peasant movement for the non-payment of rent, debts and taxes into an All-India movement and direct it into the channels of an agrarian revolution.

To develop a nation-wide movement for independence, attracting the petty bourgeoisie to it besides workers and peasants and isolating the bourgeoisie and the bourgeoisie national Congress."

I am sure my Honourable friends do not like these methods.

Now, here is the programme of the Communist International on which the programme of the Indian Communist Party is based :

" Hatred of God and all forms of religion ; destruction of private property and inheritance ; absolute social and racial equality ; promotion of class hatred ; revolutionary propaganda through the Communist International, stirring up communist activities in foreign countries in order to cause strikes, riots, sabotage, bloodshed, and civil war.

Destruction of all forms of representative or democratic government, including civil liberties, such as freedom of speech or the Press, of Assembly and trial by jury."

Yet, my Honourable friend says that there is no harm in this Communist Party and there is no harm in this Communism. He reminds me of the story of three little pigs which was on the screen a short time ago. These three little pigs used to dance in joyous abandon and say : " Who is afraid of the big bad wolf ? " And yet the moment the big bad wolf appeared, these three little pigs used to rush to get under the bed. When this big bad wolf becomes a reality and my Honourable friend, the *ex*-Mayor of Bombay, sees something of its destructive force, I am sure he will be the first to try and place his portly body under the protection of some bed.

**Dr. G. V. Deshmukh :** You are not alluding to the Home Member I think.

**Mr. F. E. James :** I will now deal briefly with the third aspect of this problem and that is the problem of communalism. Here I wish to speak very carefully and in such a way as not to wound anybody's feelings. I do not want to suggest to those who have spoken about the third party in the matter that this constant reference to the third party is only shirking the real issue. They know it as well as I do. I would also like to remind them that this third party, however unpleasant its presence may have been in the past, has, on many occasions, saved India from a positive holocaust. I want to make it perfectly clear that communalism as such has no supporters in this Group. I want to say that if it is a fact that the communal tension today is greater than it has been in the past—I am not expressing any opinion on that,—it brings no pleasure either to the heart or mind of any Member of my Party. I would echo the words of my Honourable friend, the Mayor of Calcutta, which he used in his speech yesterday when he pleaded for toleration. I suggest to the Honourable Members that the issues involved are very delicate indeed and cannot be brushed aside by throwing the blame on the third party. There is the struggle for power, the economic problem in Bengal particularly, there is the power of fanaticism in spite of moderate leaders. All these issues are involved in this communal problem and there are many other difficulties. The future of India, whether under the present Constitution or under the next, will depend to a very large extent on the way in which communal difficulties are faced by the leaders of the various movements. I may also say that as far as it lies in our power as a small microscopic community in this country, we shall always be willing to lend whatever assistance we possibly can if it can in any way help towards settling some of these difficult communal problems. (Hear, hear.)

**Mr. S. Satyamurti :** Then give up your ill-gotten eleven seats in Bengal.

**Mr. F. E. James :** I said nothing about any seat anywhere.

**Mr. S. Satyamurti :** You are quite comfortable.

**Mr. F. E. James :** My Honourable friends are counting their chickens before they are hatched.

**Mr. Mohan Lal Saksena :** But you will play the part of the monkey in the story of the monkey and the two cats.

**Mr. F. E. James :** I want to put it to my Honourable friends that they cannot deny the existence of these movements.

**Mr. M. Asaf Ali :** We do.

**Mr. F. E. James :** My Honourable friend would deny his very existence.

**Mr. M. Asaf Ali :** Have you given any number as regards the Communists in this country? How many people are there? You talk of Communism in such a vast country as India!

**Mr. F. E. James :** My Honourable friend if he has the eyes to see can read the facts in the papers. Practically every day he will see events in the country which would lead him to conclude that there is

terrorism, Communism and communalism existing in our land at the present moment.

**Mr. M. Asaf Ali :** I was referring only to Communism.

**Mr. F. E. James :** I have long ago passed that part of the subject. Nor can the Leaders of the Congress Party deny their own responsibility in these matters. It has been proved to the hilt in the past that the Congress Party, in different parts of the country, either directly or indirectly were connected with the terrorist movement.

**Mr. S. Satyamurti :** Nonsense. Utter nonsense.

**Mr. F. E. James :** Any one who has read the speech delivered the other day by the Honourable the Leader of the House would come to that conclusion. That speech still remains uncontradicted.

**Mr. S. Satyamurti :** He has not yet finished his speech. We will reply to his allegations when our turn comes.

**Mr. F. E. James :** I say that the Honourable Members on the opposite side as members of the Congress cannot shirk their responsibility in the matter. Take the question of Communism and communalism. Can the Congress entirely divorce themselves of responsibility in regard to both these two menaces ?

**Mr. S. Satyamurti :** Yes. We can.

**Mr. F. E. James :** Can they still affirm that, in spite of the fact that the contrary is proved every day, the ordinary law of the land is enough ?

**Mr. S. Satyamurti :** Yes, perfectly. The ordinary law of the land is enough.

**Mr. F. E. James :** I would remind my Honourable friend, Mr. Satyamurti, that, able lawyer as he is, he cannot meet terrorism with theories of jurisprudence or with books of law.

**Mr. S. Satyamurti :** You want to shoot them down !

**Mr. F. E. James :** You cannot meet terrorism with the ordinary law of the land. Even the powers that have been taken at present have not been sufficient to bring this movement under complete and absolute control. Therefore, I would ask my Honourable friends to let us know what is their alternative. They cannot ignore the existence of these evils. They cannot affirm with any reason that they can meet these evils by the ordinary law of the land. They cannot deny the right of the State to protect itself. What solution have they got for this menace ?

**Mr. S. Satyamurti :** Swaraj. (Hear, hear.)

**Mr. F. E. James :** What is their alternative ? My Honourable friend is shouting Swaraj like a parrot. May I remind my Honourable friend that Swaraj will not bring a solution of all the evils, that flesh is heir to, in spite of the fact that the Honourable Member said in his recent lectures in the South of India that when he got Swaraj the rain would fall from the heavens.

**Mr. S. Satyamurti :** I am sorry to interrupt my Honourable friend. As he quoted me, I must rise to a point of personal explanation. I

[Mr. S. Satyamurti.]

never said that, when Swaraj comes, rains will fall directly from heaven. What I said was, when Swaraj comes, the rains falling from heaven will not be allowed to go waste into the sea but will be conserved for irrigation purposes in this country. (Hear, hear.) (Applause.)

**Mr. F. E. James :** My Honourable friend said a lot of things in India during the summer.....

**Mr. S. Satyamurti :** So did you.

**Mr. F. E. James :**.....some of them were authorised, some of them were not authorised. His description as given in one of the Congress papers as the "enfant terrible of the party" is not altogether unmerited. But I may tell my Honourable friends that if they have any constructive plan, we are prepared to consider it here and now. When I listened to the speech of my Honourable friend, I could not find any constructive suggestions for improving this Bill. If they have no constructive alternative, then, as far as we are concerned, we have to tell the Honourable the Home Member that we want the Bill, the whole Bill and nothing but the Bill. That is our final word.

**Mr. S. Satyamurti :** No amendments therefore.

**Mr. F. E. James :** Now, my last word is in reference to the appeal which has been made by the Honourable Members opposite to what they call the liberty of Englishmen. I am glad that they have paid us that compliment. We are proud of it. India's position today is due to the fact that England is the greatest liberty-loving country in the world.

**Mr. S. Satyamurti :** Ask Egypt, ask Ireland, ask America. You call England a liberty-loving country !

**Mr. F. E. James :** I cannot blame my Honourable friends for not knowing when they are well-off. Under whom would they like to be ? Under Italy or Germany ?

**Mr. S. Satyamurti :** Under ourselves. Neither under Italy nor under Germany nor under you !

**Mr. F. E. James :** Under yourself !

**Mr. S. Satyamurti :** We will kick all of you out.

**Mr. F. E. James :** My Honourable friends say they would like to be under themselves. Let me tell them this. They can be under themselves the moment they deserve to be a free and united country.

**Mr. S. Satyamurti :** We shall become a free and united country by driving you all out.

**Mr. F. E. James :** May I also remind my Honourable friends that the liberty of England of which they have spoken so much, that liberty which we love and are proud of, is liberty because we have learned how to protect it. Let me give Honourable Members two pictures. During the economic crisis, when unemployment stalked the land, when credit was falling and when there was the threat of starvation at the door of many a home,.....

**Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) :** When Charles I was killed. (Laughter.)

**Mr. F. E. James :** My Honourable friend's interruption is a measure of his own intellectuality. I said, why we love our liberty ? Because, even during those times, the head of terrorism or Communism had shown itself, the good sense of our people would in one united blow have shattered its hopes. I would remind my Honourable friends of what happened in England during the general strike. The general strike was a strike which was engineered by the Trades Union Congress. It was interpreted by the people of my country as an attempt by a section to intimidate the whole community. What happened ? Every one, whether he came from the university or whether he came from the workshop, came to the rescue of Government and determined to show the Trades Union Congress that the community of England would never be intimidated by one section. And the whole of the middle classes enrolled and made it possible for that strike to be called off and for England once more to be called the land of liberty. What happens here ? During the last 15 years terrorism has shown its head. What has been the attitude of my Honourable friends opposite ? What has been the attitude of the dominant party in the land ? That party did not fight it in the beginning (*Cries of " We have, always."*) That party was inextricably mixed up in Bengal with the terrorist organisation (*Cries of " No "*)—these are facts which my Honourable friends cannot possibly refute. You can have your liberty if you know how to protect it. Liberty is not only something that grows in genial soil ; but it is something that has to be protected and guarded ; and until the common people of the land know how to protect themselves against those influences that are directed against their own liberties, the State must protect them. For liberty, let me remind my friends, " is not secure save in the hands of discipline ".

**Mr. Abdul Matin Chaudhury (Assam : Muhammadan) :** Sir, the Honourable the Home Member in concluding his speech appealed to the Members of this House to discuss this measure without any heat or passion. For my own part, Sir, I intend to respect that appeal. I would like to examine in the light of cold logic whether, under the circumstances that exist today, we cannot afford to dispense with this Criminal Law Amendment Act. In recent years, Sir, we have passed through very tumultuous times. The Congress had thrown a challenge to Government by launching the Civil Disobedience Movement. Terrorism had raised its head. I think the year 1932 marked a peak year of terrorist activities. Since then owing to the energetic action taken by Government and the open and unequivocal condemnation of terrorism by the public and the press the movement to a large extent has subsided. It has been brought under control. The Civil Disobedience Movement, according to Government themselves, is in abeyance. The only question with which we are concerned is whether in the tranquil atmosphere in which we live today we can arm the executive with the power which they do not need to exercise ; and on that question I think there is only one answer possible, and that is an emphatic negative. It has been said, Sir, that any relaxation of control will lead to the revival of terrorist activities. We all know, Sir, that the cult of terrorism thrives most in an atmosphere of intense political excitement and when that atmosphere is absent, when that stimulus is absent, that movement slackens ; it dies of inanition. The terrorists were most active during the Anti-Partition agitation days. Terrorism was again revived during



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the political turmoil of recent years. Now, Sir, while we can concede that the resort to extraordinary measures may be justified in dealing with such an emergent situation as existed a few years ago, with the cessation of that emergency the necessity for the legislation also ceases to exist. The Legislature cannot be expected to arm the executive with uncontrolled power over the liberty of the citizens when the emergency that led to the bestowal of that power no longer exists. Now what is the situation in the country today? I shall quote the testimony of an astute observer of political events like Sir Stanley Reed. After a visit to this country Sir Stanley Reed says that the country is weary of the political struggle and is anxious to get along with a constructive effort in the sphere of politics. Is this an occasion to enact more repressive laws in the country? His Excellency the Viceroy in one of his addresses before this House had said that in course of time the protagonists of direct action would be caught in the current of constructive forces which advent of Reforms was releasing on all sides. His prophecy has been more than fulfilled. Is this then the occasion, I would ask the Home Member, to enact a measure like this? The Honourable the Home Member has discovered a new and additional reason, a reason that was not advanced before, for the enactment of this measure. He has told us very gravely that the communal situation was never more tense than it is today. I entirely differ from that view. With all respect due to the Honourable the Home Member I differ from his appreciation of the situation. I maintain, Sir, that the situation was never more favourable for communal settlement than it is today. With all the agitation over the Government of India Act over and with a growing desire on the part of the Congressman to understand and appreciate and accommodate the Muslim point of view, I think we are nearer a communal settlement today than at any time before. In fact, Sir, we were within an ace of getting a communal settlement in April as a result of Jinnah-Rajendra Prasad conversations. I am not unmindful of the situation that may develop over Shahidgunj affair, but I am assured that a peaceful settlement of this question is not beyond the bounds of practical politics. Communal bitterness, communal tension and communal riots were at their worst in the years 1921-22, 1924-25 and 1926-27: but in those years Government never thought it necessary to introduce any measure to deal with the communal situation and now that the situation is returning to normal, the Government now put forward, as a justification for the continuance of the measure, the existence of communal tension in the country. That argument, it seems to me, is the least convincing. It seems that the Government is anxious to keep their armoury well equipped not so much for present or immediate use as for any emergency that may arise in the future. As for the future, we are now on the threshold of a new era of constitutional reforms. However much the Government of India Act may fall short of our expectations, it cannot be denied that in the sphere of provincial administration, provincial autonomy marks a definite advance. If the parliamentary system of Government is to be given a fair trial in this country, it is essential that every school of political thought should be given complete freedom of organisation of unhampered propaganda to advocate their own policy and programme. Now, it is quite possible that such organisation and such propaganda may undermine the position of the party in power in a particular province, and in that case it would be to the interest

of that party in power to use all their influence to counteract those activities. I will give you an example. Supposing in Madras the Justice Party takes up the Ministry ; and suppose that the Congress Socialists under the leadership of my Honourable friend, Professor Ranga, carry on an agitation and propaganda, organising peasants and workers throughout the province, educating the electorate and denouncing by the way the bourgeois mentality and the bureaucratic policy and the capitalistic outlook of the Justice Ministry, if the Professor becomes too obnoxious there is a great temptation for the Justice Ministry to denounce the Peasants and Workers Organisation as a Communist organisation and put him into jail. My friend, Mr. Joshi, was telling me the other day that a member of the Bombay Corporation in his speech once said that he was surprised how Government could, every time, nominate a Communist like Mr. Joshi to the Legislative Assembly....

**Sir Ghulam Hussain Hidayatallah** (Sind Jagirdars and Zamindars : Landholders) : I may assure him that Mr. Joshi is not a Communist.

**Mr. Abdul Matin Chaudhury** : Just as the present Government use the power under this Act to defend and consolidate their own position, so it is quite likely that the future Ministers also will try and use the powers under this Act to crush their political adversaries, that is a contingency which we want to avoid. Once you depart from the principles by which the fundamental rights of the citizens are secured, there is no knowing where the mischief will end. It will pave the way for autocracy and despotism. Conscious of the power over the freedom and liberty of their own political adversaries, the party in power is sure to disregard and treat with contempt public opinion, and public criticism ; and this will be fatal for the growth of parliamentary institutions in this country. There is no reason to suppose that the future Councils that are coming into being with the inauguration of the reforms will not, in an emergency, rise equal to the occasion or refuse to grant the executive the power when they need it. The sense of irresponsibility, which is sometimes associated with the attitude of non-official Members towards Government measures, is not going to be a feature of the Councils that are coming into being with the inauguration of the Reforms. With the prospect of themselves assuming the reins of the Government in case of the downfall of a Ministry, the opposition will scrutinise every Government measure with a due sense of responsibility ; and in an emergency they are hardly likely to refuse sanction to a measure which they themselves may have to promulgate when they assume the reins of office. Under these circumstances, in view of the situation that exists today in the country and in view of the changes that are coming with the introduction of the Reforms, I think the enactment of this measure is entirely unjustifiable.

With regard to the section dealing with the press : in 1931, the Government were faced with the revival of terrorist activities in a very acute form ; and, as one of the measures to deal with that situation, they issued an Ordinance controlling the press : the main features of that Ordinance were, later on, put on the Statute-book. The ground on which they urged the enactment of that measure on the previous occasion was this : they said that an emergency had arisen because of the revival of the terrorist movement, and a section of the press by their eulogy of murders gave incentive and stimulus to that movement, and Government needed power to deal with them. In fact the Press Act was called the

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Press Emergency Act and it was made a temporary measure. Now, the temporary period is over and the Government want to enact it in permanent form. I am not going to argue whether the terrorists receive their inspiration from the newspaper writings or whether they receive their inspiration from standard books of English literature or from the incidents of English history or from the recent successes of the Irish Republican Party who by their methods of violence forced the Government to capitulate. My own impression is that the Chittagong Armoury raiders derived their inspiration more from the guerilla warfare of the Irish Republican Army than from any double column headlines in the nationalist press. But for the sake of argument, I am prepared to concede that in the year 1931 circumstances justified the enactment of this measure, and that the knowledge that the Government had this weapon in their armoury tended to curb the excessive zeal of the leader writers in the nationalist press and that the Assembly in 1932 agreed to curtail the power of the press and took the risk of its possible abuse by the authorities because the authorities insisted that there was a great menace threatening the country and they needed the power to deal with it. Government gave us an assurance on that occasion that the powers would be very judiciously exercised. What is the situation today? That emergency no longer exists, and whatever the justification there might or might not have been for the enactment of this measure in 1931, today that justification no longer exists. Sir, the situation in the country at the present time is such that such a measure as this is entirely unnecessary. That is my view of the situation. If there is excitement anywhere, it is in the Home Department of the Government of India who are very busy forging weapons which are not necessary and manufacturing justifications which may appear plausible. Now, Sir, if, in 1931, a certain section of the press eulogised murder, I think even my friend, Sir Abdul Halim Ghuznavi, will admit that in recent months, the most characteristic feature of the writings in the Indian press has been an expression of loyalty to the Throne and eulogy of the Silver Jubilee....

**Sir Abdul Halim Ghuznavi** (*Dacca cum Mymensingh : Muhammadan Rural*) : Which are those papers ?

**Mr. Abdul Matin Chaudhury** : I think every section of the Indian press co-operated with authorities to make the Silver Jubilee a success. Even the Congress papers co-operated with the movement....

**Sir Abdul Halim Ghuznavi** : I did not get any co-operation in Calcutta.

**Mr. Abdul Matin Chaudhury** : Even well-known Congress newspapers went out of their way to publish Jubilee Supplements, and, I think, Congress newspapers like the *Hindustan Times* and the *Hindu* published Supplements....

**Sir Abdul Halim Ghuznavi** : But they were making money over it.

**Mr. Abdul Matin Chaudhury** : I am sure even the Government will admit that there has been a distinct improvement in the tone and the temper of the Indian press in regard to their attitude towards terrorism. The policy of condemning the deed and admiring the motive has given place to a policy of unreserved condemnation of terrorists and their

activities ; you cannot say that this change of attitude is not entirely due to the existence of the press, because, Sir, the most that the press Acts can do, is to prevent direct and indirect laudation of terrorist activities ; but it cannot extort whole-hearted condemnation unless the press is genuinely anxious to eradicate the evil ? It is perfectly clear from the writings in the Nationalist press that they are anxious to co-operate with the authorities to uproot the evil. And, in Bengal particularly, they are making sincere efforts to co-operate with the authorities to wean the terrorists back from pursuing their misguided activities.

Sir, it is very often said that this Press Act is directed not against the well conducted and responsible papers, but it is directed against only those irresponsible extremist papers where writings have got a tendency to incite people to deeds of violence, and the well conducted papers, therefore, need have no fear whatever on account of the operation of this Act. Our past experience belies that assumption. Whenever the Press Act was before the House, Government was always assuring us that this Act would be directed only against those papers who incite people to deeds of violence. We are asked to believe in the infallible discretion of the District Magistrate ; we are asked to believe in the judicial fairness of the Local Government, but these assurances in most cases are more honoured in their breach than in observance. I will give the House one classical instance of the abuse of the Press Act by the authorities. The Press Act of 1910 was enacted to deal with those writings which directly or indirectly encouraged anarchical crimes. Now, Sir, against whom was this Act directed ? The most celebrated case under the Press Act of 1910 was the *Comrade* case, and why was the security demanded from the editor of the *Comrade* ? Honourable Members who are not aware of the history of that case will be surprised to hear that security was demanded from the *Comrade* for publishing an humanitarian appeal. During the Balkan War, in Bulgaria, the Macedonian bandits committed inhuman atrocities on Turkish population. Sir Adam Block, who was the Chairman of the Imperial Ottoman Bank at Constantinople, issued an appeal to all the civilized world, describing the atrocities. The appeal was called " come over to Macedonia and help us ". Mr. Mahomed Ali,—he was not Maulana in those days,—aristocratic and fashionable Mr. Mohamed Ali, a familiar figure in the social circles of the bureaucracy—committed the atrocious crime of publishing that appeal in his paper, and, therefore, he was asked to furnish security. He then appealed to the High Court, and the Chief Justice, Sir Lawrence Jenkins, who paid the highest tribute to the editor, said that under the provisions of the Act no relief could be granted to the appellent. That is how the Press Act is being administered.

Now, Sir, I want to address my remarks to my Muhammadan friends of this Assembly. Muslims have kept away from terrorist activities. Mussalmans except in the frontier have kept away, as a community, from the Civil Disobedience Movement, and still, Sir, proportionately speaking, the Mussulman press has suffered most from the operation of this Press Act. We have got only a handful of Muslim newspapers ; they can be counted on the fingers of one hand, and yet, Sir, within the last 5 years the Press Act has been in operation, 61 Muslim papers have ceased publication because of the operation of the Press Act. (Cheers from the Congress Party Benches.) Can the Honourable the Home Member tell me whether during the same period of 5 years another 61 journals have

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been started and are still on circulation ? My point is this that more Muslim papers have succumbed to this Press Act than have survived it. This Press Act has strangled the Muslim press in the past, and it will continue to strangle it in the future. And I would ask my Muslim friends here--are they going to be a party to the passing of a measure that will cripple the growth of the Muslim press in this country ? I would leave them to answer that question. For every Muslim press that goes out of existence, because of the operation of this Act, the responsibility will be on the head of those Muslim Members who by their vote will support the passing of this measure. (Cheers from the Congress Party Benches.)

The Assembly then adjourned till Eleven of the Clock on Thursday, the 12th September, 1935.