

Wednesday, 10th February, 1932

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THE
LEGISLATIVE ASSEMBLY DEBATES

(OFFICIAL REPORT)

VOLUME I, 1932

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THIRD SESSION

OF THE

**FOURTH LEGISLATIVE ASSEMBLY,
1932**



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Legislative Assembly.

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Deputy President :

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Secretary :

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Assistants of the Secretary :

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

RAI BAHADUR D. DUTT.

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

Committee on Public Petitions :

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

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DIWAN BAHADUR HARBILAS SARDA, M.L.A.

MR. B. SITARAMARAJU, M.L.A.

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LEGISLATIVE ASSEMBLY.

Wednesday, 10th February, 1932.

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

QUESTIONS AND ANSWERS.

RESTRICTIONS AGAINST INDIANS ENTERING PANAMA.

168. ***Mr. Gaya Prasad Singh**: (a) Have the Government of Panama prohibited immigration into Panama territory of all Indians except those who can satisfy the Ministry of Foreign Relations that they have sufficient capital to draw upon?

(b) What is the approximate number of Indians in Panama territory; and why does this restriction apply to the Indians only? Do Government propose to inquire into this matter?

Sir Evelyn Howell: (a) Yes, Sir.

(b) The number of Indians in Panama is approximately 1,000. The restriction referred to in (a) above is based upon economic grounds and is in accordance with the generally recognised right of States.

(Before the question was asked.)

Mr. Abdul Matin Chaudhury: On a point of order, Sir. Is it in order for one Honourable Member to insinuate against another Honourable Member of the House?

Mr. B. Das: Let the question be replied to.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is in order.

REFUSAL OF PERMISSION TO A DEPUTATION OF THE ALL-INDIA JAMIAT-UL-ULEMA TO VISIT THE NORTH-WEST FRONTIER PROVINCE.

169. ***Mr. Gaya Prasad Singh**: (a) Is it a fact that the Chief Commissioner of the North-West Frontier Province, or the Foreign and Political Department of the Government of India invited two gentlemen to go to that Province under certain conditions, and to study the situation there? If so, who are these gentlemen, and how were they selected?

(b) Is it a fact that the All-India Jamiat-ul-Ulema which applied for a deputation to visit the Frontier Province to study the situation there has been refused permission? If so, why?

(c) Has the attention of Government been drawn to a communication from Maulana Ahmad Saied, Secretary, Jamiat-ul-Ulema, published in the *Amrita Bazar Patrika*, dated the 23rd January, 1932, in the course of which it is stated that, on the day preceding his departure, one member

of the so-called deputation "received a letter from Sir Evelyn Howell, Secretary, Foreign and Political Department, through a peon at my residence. When he opened that letter and read its contents loudly, he was very much pleased with it as it was an invitation to him to visit the Frontier Province under certain conditions"; but the gentleman in question was requested not to proceed until and unless he was allowed to make independent enquiries without any conditions, but the gentleman promptly replied that "the only aim of his deputation was to bring about reconciliation between the Mussalmans, and the Government of the North-West Frontier Province, and he did not mind the conditions which had been imposed by the Government"?

(d) Can a copy of this letter from the Foreign Secretary be placed on the table together with a copy of any report or communication which might have been submitted to Government?

Sir Evelyn Howell: (a) Yes. The invitation was conveyed to Maulvi Shafee Daoodi as the representative whom the Muslim Conference had deputed for this purpose. He was accompanied by Maulvi Mazhar-ud-Din.

(b) Maulvi Kifayatullah of the Jamiat-ul-Ulema announced his intention of visiting the North-West Frontier Province and was informed that his visit was undesirable at that time.

(c) Yes.

(d) I lay on the table a copy of my letter of the 9th of January, to Maulvi Shafee Daoodi. It was written after discussion with him. No report or communication has been submitted to Government or is expected.

Foreign and Political Department,
New Delhi, the 9th January, 1932.

MY DEAR MAULVI,

With reference to our conversation of this morning I enclose a letter of introduction to the Chief Commissioner. I have informed him that you and the other members of your party whose numbers are not likely to exceed three and of whose probable composition I have informed him will arrive in Peshawar by the 11 o'clock train on Monday the 11th of January with the object of finding out for the information of the All-India Muslim Conference the actual condition of affairs in the North-West Frontier Province. I have also told him that you on behalf of your party have agreed to go straight to Peshawar and to be generally guided by his advice as to your actions while in the North-West Frontier Province. If there is anything further that I can do for you, I trust that you will let me know and will inform me as soon as possible who the actual members of your party will be.

Yours sincerely,
(Sd.) E. B. HOWELL.

Maulvi Muhammad Shafee Daoodi, M.L.A.,
C/o Maulvi Mazhar-ud-Din, Editor, 'Alaman',
Qazi House, Delhi.

New Delhi,
9th January, 1932.

MY DEAR GRIFFITH,

This letter will be presented to you by Maulvi Shafee Daoodi, Member of the Legislative Assembly and at present Secretary of the All-India Muslim Conference, who with one or two other members has been charged by that Conference with the

duty of ascertaining the actual condition of affairs in the North-West Frontier Province about which some wild and disturbing rumours have been current in the Punjab and in Delhi. Maulvi Shafee Daoodi and the other members of his party are only concerned to ascertain the facts for the information of the Conference and rely upon you to put them in the way of ascertaining the truth. They have undertaken to go straight to Peshawar and while in the North-West Frontier Province to be generally guided as to their actions by your advice.

I may add that Maulvi Shafee Daoodi is an old friend of mine, and I am sure that you will find such personal relations as you may have with him as agreeable as I have always done.

Yours sincerely,

(Sd.) E. B. HOWELL,

The Hon'ble Lt.-Col. Sir Ralph Griffith, Kt., C.I.E.,

Chief Commissioner, N.-W. F. P.,

Peshawar.

Maulvi Muhammad Shafee Daoodi: May I, Sir, enlighten the House by disclosing that Maulvi Syed Ahmad Said

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member can only ask supplementary questions at this stage.

Maulvi Muhammad Shafee Daoodi: Is it a fact, Sir, that Babu Gaya Prasad Singh is acting as an agent of the Jamiat-ul-Ulema by putting this question? Is he not thereby furthering the cause of the Congress in the garb of the Jamiat-ul-Ulema?

Mr. B. Das: On a point of order, Sir. Can an Honourable Member of the House ask a question from another Honourable Member of the House besides the Government?

Maulvi Muhammad Shafee Daoodi: It is a bad precedent, Sir, to allow such questions to be put in the manner in which this question has been asked by Babu Gaya Prasad Singh.

Mr. Gaya Prasad Singh: Is it not in order to invite reference to a communication which has appeared in the public press and to ask the Government to lay a copy of the communication referred to in that letter on the table of the House for the information of the country?

Maulvi Muhammad Shafee Daoodi: But in the distorted, malicious and dishonest way in which it has been done.

Mr. President: The Honourable Member (Maulvi Muhammad Shafee Daoodi) need not have asked that question. The question was admitted and held to be in order.

DEPORTATION OF FATHER ELWIN FROM THE NORTH-WEST FRONTIER PROVINCE.

170. ***Mr. Gaya Prasad Singh:** Is it a fact that Father Elwin has been deported from the North-West Frontier Province? If so, why and under what law?

Sir Evelyn Howell: The Honourable Member's attention is invited to the reply given to part (a) of his question No. 142 in this Assembly.

CONTRACT FOR THE AIR MAIL SERVICE IN INDIA BY MESSRS. TATA AND SONS.

171. ***Mr. Gaya Prasad Singh:** Is it a fact that arrangements are being made with Messrs. Tata and Sons to work the Air Mail Service between Karachi and Madras *via* Bombay? If so, what are the terms of the contract; how long will it last; and what financial charge will fall on central revenues?

The Honourable Sir Joseph Bhoré: Government propose to enter into an agreement with Messrs. Tata and Sons, Limited, Bombay, for the operation of a weekly air mail service between Karachi and Madras *via* Bombay. The Company will be given a contract for the carriage of all air mail on this route for a period of 10 years. No subsidy or guaranteed load of mail will be given. The Company will be paid according to the weight of mail matter actually carried, and it is estimated that such payments will be covered by the receipts of the Posts and Telegraphs Department. Consequently it is anticipated that no charge on this account will fall on central revenues.

Mr. S. G. Jog: Did any other firm approach the Government or was this the only firm which approached the Government?

The Honourable Sir Joseph Bhoré: This is the only firm.

Mr. S. G. Jog: Was it publicly announced that any other firm could also offer their terms for this service?

The Honourable Sir Joseph Bhoré: It was widely known that the Government were open to offer from any quarter for many years past.

APPOINTMENT OF WOMEN POLICE IN DELHI.

172. ***Mr. Gaya Prasad Singh:** (a) Are women police being recruited for the Delhi Police Service? If so, how many of them have already been recruited up to date; for what period; and for what purpose?

(b) Out of those so far recruited, to what communities do they belong, and what steps do Government propose to take to adjust communal claims in this matter?

The Honourable Sir James Orerar: (a) Yes. One Head Constable and 10 Constables have been recruited up to date, for a period of three months. They will be employed to deal with women delinquents, especially members of unlawful associations.

(b) One Anglo-Indian, three Hindus and seven Indian Christians. These were the best qualified candidates. There has been no racial or communal discrimination.

ELECTION OF INDIAN MEMBERS TO THE LEGISLATIVE COUNCIL IN FIJI.

173. ***Mr. Gaya Prasad Singh:** (a) Is it a fact that the estimated Indian population of Fiji is about 75,000, but there is not a single Indian member in the Legislative Council of that Colony?

(b) Is it a fact that the three Indian members who were returned under a communal franchise about two years ago, resigned their seats; and although Government called for another election later on, not a single Indian came forward for candidature?

(c) How far has the question of granting a common franchise, and common electoral roll in Fiji, advanced?

Sir Frank Noyce: (a) and (b). Yes.

(c) The decision rests with the Government of Fiji. So far no progress appears to have been made.

APPOINTMENT OF AN INDIAN AGENT IN FIJI IN PLACE OF THE SECRETARY FOR INDIAN AFFAIRS.

174. ***Mr. Gaya Prasad Singh:** Is it contemplated to abolish the post of Secretary for Indian Affairs in Fiji, and to appoint a suitable Indian Agent there?

Sir Frank Noyce: No, Sir.

EDUCATION OF EUROPEAN AND INDIAN GIRLS IN FIJI.

175. ***Mr. Gaya Prasad Singh:** (a) Are Government aware that in Fiji there is a fully-equipped Girls' Grammar School for European girls with a boarding establishment costing the Government about £13,500 for the hostel alone, while very insufficient arrangement exists for the education of Indian girls?

(b) What is the amount of money spent over the education of Indian girls in Fiji?

Sir Frank Noyce: (a) and (b). Government have no information. Such statistics as are available, however, show that 9.4 per cent. of Indian girls of school-going age in Fiji were attending schools in 1929.

Mr. Gaya Prasad Singh: Do Government propose to obtain information on the point?

Sir Frank Noyce: I shall be glad to get the information.

GOLD EXPORTED FROM AND IMPORTED INTO INDIA.

176. ***Mr. Bhuput Singh:** Will Government be pleased to state:

- (a) the total quantity of gold exported from India from September, 1931 to January, 1932;
- (b) the total quantity of gold exported from India from September, 1930 to January, 1931;
- (c) the total quantity of gold imported into India from September, 1931 to January, 1932; and
- (d) the total quantity of gold imported into India from September, 1930 to January, 1931?

The Honourable Sir George Schuster: The Honourable Member is referred to Part V of the Accounts relating to the Sea-borne Trade and Navigation of British India and the Indian Trade Journal where he will find the latest figures available.

Dr. Ziauddin Ahmad: Do the figures published in the journals give the amount of gold exported last week?

The Honourable Sir George Schuster: No; the latest number of the publications referred to certainly would not include the exports for last week.

Dr. Ziauddin Ahmad: But the intention of the question is to get the latest figures, otherwise we should have got them ourselves.

The Honourable Sir George Schuster: The Honourable Member will get substantially the whole of the figures that he requires from the Trade Journals; and it is the practice in answering questions, if information is substantially available in public documents, to refer the Honourable questioner to those documents.

ALLEGED CANING OF PICKETS IN TINNEVELLY.

177. ***Mr. Bhuput Sing:** Will Government be pleased to state:

- (a) whether their attention has been drawn to a Free Press message dated January 15th, from Tinnevely in Madras alleging that two pickets were caned;
- (b) if so, whether any enquiry has been made as to why they were caned and by whom;
- (c) whether the Ordinance against picketing authorises the caning of volunteers; and
- (d) if any special instructions have been issued by the Government of India to the Provincial Governments on this point; if so, what?

The Honourable Sir James Crerar: (a) I have seen the press message referred to.

(b) The matter is one with which the Local Government is fully competent to deal.

(c) and (d). The reply is in the negative.

MEMBERS NOMINATED FOR THE COMMITTEES OF THE ROUND TABLE CONFERENCE.

178. ***Mr. Bhuput Sing:** Will Government be pleased to state:

- (a) whether the nominations made by the Prime Minister of the members of the four Round Table Conference Committees were made by him on his own initiative or upon recommendation from the Government of India;
- (b) if the latter be the answer, why it is that no names of any Nationalist Muslims were recommended for nomination;
- (c) if any member has been appointed to any of these Committees from Bihar and Orissa; if not, why not;
- (d) what principles and methods have been followed in selecting the personnel of the Committees;
- (e) whether the members of the Committees will be given travelling allowances; if so, on what scale; whether the British Government or the India Government bear the expenses incurred by the members; and
- (f) when the Committees are expected to conclude their labours and what will be the approximate cost incurred in the works of these Committees?

The Honourable Sir George Rainy: (a) The nominations to the Consultative Committee were made by the Prime Minister and to the other Committees by His Majesty's Government.

(b) Does not arise.

(c) and (d). Of the four Committees, two are purely expert Committees (*viz.*, the Federal Finance and the Indian States Committees).

The desirability of making the Franchise Committee as far as possible representative of important interests and of responsible public opinion was recognised, and subject to the limit of members which was necessary, if the Committee was not to become of unmanageable size, every effort was made to secure this result. The Consultative Committee is a Working Committee of the Round Table Conference. His Excellency the Governor General acts as Deputy for the Prime Minister, and the members represent the general body of Indian delegates to the Round Table Conference.

(e) The members of the Committees, other than the members of the Consultative Committee, will receive travelling allowance as for first class officers on tour *plus* a tour allowance of Rs. 300 per mensem but no halting allowance. When travelling in reserved accommodation members will draw only their incidental expenses. Members of the Consultative Committee will receive allowances similar to those admissible to members attending sessions of the Indian Legislature. His Majesty's Government will bear all the costs and allowances of members from England except the cost of their travel in India. It is anticipated that the Treasury will also bear the cost of the Secretariat staff sent from England.

(f) The States Enquiry and Federal Finance Committees will, it is anticipated, have concluded their enquiries by the end of April, when the British members expect to return to England. In his letter of the 29th December to the Chairman of the Franchise Committee the Prime Minister has noted that it may not be possible for the Committee to complete its enquiry during the present cold weather, and has left it to the Chairman to consider whether, in the light of the progress made in his first tour, to issue an *ad interim* report on points on which provisional or final conclusions may have been reached by the Committee.

The Consultative Committee will not be in continuous session. It met for the first time on the 28th January and is to meet again on the 22nd February.

The probable expenditure from Indian revenues on account of these Committees has been estimated at Rs. 7,48,000, but this estimate is under revision in the hope that this amount may be reduced.

Mr. Lalchand Navalrai: Is the Honourable Member aware that in these nominations, no Hindu representative from Sind was nominated even though the question of separation of Sind was under consideration?

The Honourable Sir George Rainy: I am prepared to take it from my Honourable friend that it is so.

Mr. N. M. Joshi: May I ask why there is no representation of Indian Labour on the Franchise Committee and whether Government propose to appoint a representative of Indian Labour on that Committee now?

The Honourable Sir George Rainy: The appointments were made by His Majesty's Government and therefore I am not in a position to give a reply to my Honourable friend.

Mr. N. M. Joshi: Do the Government propose to make a representation to His Majesty's Government on this point?

The Honourable Sir George Rainy: The Government of India will certainly consider any suggestion that he makes.

Mr. Lalchand Navalrai: May I ask why Government did not nominate a Hindu representative from Sind on the Round Table Conference when the question of separation of Sind was being agitated?

The Honourable Sir George Rainy: Nominations to the Round Table Conference were made by His Majesty's Government or by the Prime Minister.

Mr. Gaya Prasad Singh: Was there no communication between the Government of India and the Prime Minister with regard to the nominations of individual names?

The Honourable Sir George Rainy: The Honourable Member is not entitled to draw that inference.

Mr. K. C. Neogy: Is it not a fact that certain names were added subsequent to the first announcement of the names?

The Honourable Sir George Rainy: I believe the Honourable Member is correct.

Mr. K. C. Neogy: Is it a fact that it was as a result of certain communications made either by the Government of India or certain Provincial Governments that this was done?

The Honourable Sir George Rainy: I must ask for notice.

Mr. Gaya Prasad Singh: Is it not a fact that the name of Dr. Ansari was in communication between the Government of India and the Secretary of State shortly before the announcement of the list?

The Honourable Sir George Rainy: I think my Honourable friend overlooks the fact that this question relates to certain Committees and not to the Round Table Conference.

Mr. B. Das: Did the Government of India represent to the Prime Minister and to His Majesty's Government that in the Federal Finance Committee, there were no British Indian experts while there were two Indian State experts?

The Honourable Sir George Rainy: I must again reply that the appointments to the Committees rested with His Majesty's Government and so I am not in a position to reply.

Mr. B. Das: Did the Government of India represent to the Premier the strong resentment of the British Indian public that no Indian financial expert finds a place in the Federal Finance Committee?

The Honourable Sir George Rainy: I think if the Government of India were constituting an expert Committee, they would pay more regard to the expertness of the persons appointed than to their nationality.

Mr. B. Das: Does the Honourable Member understand the anomaly that there are two so-called experts from the Indian States, while there are no British Indians?

The Honourable Sir George Rainy: My Honourable friend, the Finance Member, has drawn my attention to the fact that there is an Indian financial expert from British India on that Committee.

Mr. K. O. Neogy: Is it not a fact that there are two Government of India officials connected with the Federal Finance Committee, one as a Member and the other as a Secretary, and may I know whether these nominations were made by His Majesty's Government without any reference to the Government of India?

The Honourable Sir George Rainy: I am afraid I cannot answer any question concerning communications between His Majesty's Government and the Government of India.

Dr. A. X. DeSouza: With reference to the statement made by the Honourable the Leader of the House that the Franchise Committee was intended to be more or less a representative Committee, may I ask why the Government of India did not recommend the name of an Indian Christian, in view of the fact that according to the latest census, the Indian Christians number more than five millions and form more than five per cent., and are the third largest community in the whole of India?

The Honourable Sir George Rainy: I cannot add to the answer that I have already given.

Dr. Ziauddin Ahmad: Why was not the representative of the Taluqdars of Oudh nominated on this Committee?

(No answer was given.)

STEPS TO CONTROL MONEY-LENDING AND RATES OF INTEREST.

179. *Lala Hari Raj Swarup: (a) Will Government be pleased to state what steps they have taken in furtherance of the assurances given in reply to Sir Muhammad Yakub's Resolution on control of money-lending and rates of interest?

(b) What instructions have they issued to Provincial Governments in this connection? Will they be pleased to place a copy of these instructions on the table.

(c) Will Government be pleased to state what practical steps the various Governments in the Provinces are taking in the matter?

The Honourable Sir James Crerar: (a) and (b). The views of the Local Governments have been asked for. I place a copy of the letter addressed to them on the table.

(c) The views of some Local Governments are still awaited. They have been asked to expedite their replies.

COPY OF A LETTER No. F.-759/31-JUDICIAL, DATED THE 3RD NOVEMBER, 1931, FROM THE GOVERNMENT OF INDIA, HOME DEPARTMENT, TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS.

SUBJECT.—*Sir Muhammad Yakub's resolution recommending that legislation be undertaken to control money-lending and unrestricted usurious rates of interest.—Proposed Amendment of the Usurious Loans Act, 1918.*

I am directed to forward for ^{the information of the Governor in Council} your information a copy of the extracts from the debates in the Legislative Assembly on a resolution moved by Sir Muhammad Yakub recommending that immediate legislation be undertaken to control money-lending and unrestricted usurious rates of interest in India. It will be observed that the resolution was withdrawn on an assurance being given by the Honourable Sir James Crerar on behalf of the Government of India that the matter would be brought to the notice of the local Governments as one requiring prompt consideration. It was stated that the Government of India were in sympathy with the object the mover had in view, but that before undertaking legislation they would call for a report on the working of the Usurious Loans Act, 1918, and that

if it appeared that its provisions had not been fully utilised, the local Governments would be asked to explore the causes which had led to its failure, and to suggest remedies to remove them. The Government of India also promised to ask for suggestions to amend the Act to make it really useful to achieve the object in view.

2. I am accordingly to request that a report on the matters mentioned in the preceding paragraph may be sent to the Government of India as early as possible. The general question of indebtedness has also been considered by the Royal Commission on Agriculture, the Indian Central Banking Enquiry Committee (Majority Report) and the Indian Royal Commission on Labour in India and the following recommendations concern the working of the Usurious Loans Act :

- (1) Annual reports on the administration of Civil Justice should contain a special report on the working of the Usurious Loans Act—*clause (17) in paragraph 369 of the Agricultural Commission's Report*. The same recommendation is repeated by the Central Banking Enquiry Committee in paragraph 116 (2) of their report.
- (2) The Punjab Regulation of Accounts Act, 1930 (Punjab Act I of 1930) is commended to the other provincial Governments—*paragraph 116 (1) of the Central Banking Committee's Report*.
- (3) Provisions similar to certain provisions in the English Money-Lenders' Act are recommended for introduction in India by legislation in regard to money-lenders as defined in the Punjab Regulation of Accounts Act, 1930—*summary paragraph 781 (9) and paragraph 122 of the above Report*.

I am to request that the local Government will give their views on these suggestions also.

†(3. The suggestions contained in the Punjab Government's letter No. 5565-S.-Judicial, dated the 14th September, 1931, addressed to the Finance Department, will be considered along with the replies to this letter.)

†To Punjab only.

RENEWAL OF THE WHEAT IMPORT DUTY BILL.

180. ***Mr. Goswami M. B. Puri** (on behalf of Lala Hari Raj Swarup): (a) Has the attention of Government been drawn to the letter of Major Vanrehan and other communications on the wheat import duty published in the *Statesman* of the 15th January, 1932?

(b) Have Government received any representation from any Chamber of Commerce requesting the renewal of the Wheat Import Duty Bill?

(c) What steps do Government propose to take on these representations?

The Honourable Sir George Rainy: (a) Yes.

(b) Yes. From the Northern India Chamber of Commerce, Lahore.

(c) The Honourable Member is referred to the Bill to extend the operation of the Wheat (Import Duty) Act, 1931, for another year which is now before the House.

PRICES OF WHEAT AT CAWNPORE AND LYALLPUR.

181. ***Lala Hari Raj Swarup:** (a) What were the wholesale and retail prices of wheat at Cawnpore and Lyallpur in March, 1931 when the Wheat Import Duty Bill was passed? What are these prices now?

(b) What steps do Government propose to take to extend the provisions of the Act before it expires on the 31st March, 1932?

The Honourable Sir George Rainy: (a) I lay on the table a statement giving the required information so far as it can be obtained.

(b) The Honourable Member is referred to my reply to part (c) of his previous question.

Retail prices of wheat in seers and chittaks per rupee.

	Fortnight ending 15th March, 1931.		Fortnight ending 31st March, 1931.		Fortnight ending 15th December, 1931.		Fortnight ending 31st December, 1931.		Fortnight ending 15th January, 1932.	
	Sr.	Ch.	Sr.	Ch.	Sr.	Ch.	Sr.	Ch.	Sr.	Ch.
Cawnpore . . .	14	0	13	0	12	0	11	8	11	8
Lyalpur . . .	20	0	21	0	16	0	14	0	Not yet available.	

Wholesale prices of wheat per maund.

F. O. R. Lyallpur	26th March, 1931.		2nd April, 1931.		17th December, 1931.		31st December, 1931.	
	Rs.	a. p.	Rs.	a. p.	Rs.	a. p.	Rs.	a. p.
	2	0 0	1	14 0	2	8 9	2	10 6
	7th January, 1932.		14th January, 1932.		21st January, 1932.			
	Rs.	a. p.	Rs.	a. p.	Rs.	a. p.		
	2	9 0	2	8 6	2	10 0		

Wholesale prices at Cawnpore.

20th March, 1931 Rs. 2-9-6 per maund.
 20th January, 1932 Rs. 3-4-6 per maund.

Note.—The wholesale prices at Cawnpore represent the F. O. R. prices at Calcutta minus the railway, packing and handling charges.

REPORT OF THE COMMITTEE OF ENQUIRY INTO THE RIOT AT DERA ISMAIL KHAN.

182. *Bhai Parma Nand: (a) Is it a fact that a committee of enquiry was appointed to investigate into the riot at Dera Ismail Khan which took place on August 12th, 1931?

(b) Is it a fact that the above committee has completed its work and submitted its report?

(c) If the answer to part (b) be in the affirmative, why is it that the report has not been made public?

(d) Have that committee recommended any measures of relief for the people who suffered heavy losses on account of loot and arson?

(e) Have that committee found that the allegations made by the Hindus against the Police and other officers were correct?

(f) If the answer to part (e) be in the affirmative, do Government propose to take any steps against the persons concerned?

Sir Evelyn Howell: (a) and (b). Yes, Sir.

(c) Publication of the report has been withheld pending the result of efforts which are being made locally to bring about a reconciliation between the two communities.

(d) No, Sir.

(e) The Honourable Member is presumably referring to the allegations made in the "Report of the Sub-Committee of the Hindu Members of the Bar on the happenings of 12th August, 1931, at Dera Ismail Khan" to which the attention of the Government has been directed: The Committee did not find any of the allegations made in the pamphlet against any officer of Government, whether belonging to the police or any other Department, to be correct. The conduct of the Police as a whole was one of the points on which they were unable to reach unanimity, but they describe the general effect of their work as undoubtedly excellent.

(f) Does not arise.

Bhai Parma Nand: How long will it take to publish the report?

Sir Evelyn Howell: We hope to publish it very shortly.

CLOSING OF A DISPENSARY AT RAMSAR.

183. ***Diwan Bahadur Harbilas Sarda:** (a) Is it a fact that a Government dispensary was opened nearly 60 years ago at Ramsar, an important village and at one time a Tahsil in Ajmer-Merwara, with a population of about 2,300 people and that it provided medical help to Ramsar and the neighbouring villages inhabited by several thousand people?

(b) Is it also a fact that the proprietary body of the village, called Shamlat, provided and maintained the building for the dispensary at considerable cost to the village?

(c) Are Government aware that after the establishment of this dispensary, *Hakeems* and *Vaidyas* who practised in the villages served by the dispensary, all disappeared and now no *Hakeem* or *Vaidya* is to be found in these villages?

(d) Is it a fact that only recently the village of Ramsar paid Rs. 800 to the Medical Administration of Ajmer-Merwara?

(e) Is it a fact that in December last the dispensary was ordered to be removed from Ramsar?

(f) Is it a fact that the decision to close the dispensary was influenced by report of want of commodious accommodation for the Sub-Assistant Surgeon in charge of the dispensary?

(g) Are Government aware that the decision to close this dispensary has caused dismay and dissatisfaction throughout the part of the District bounded by Kekri on the East, the city of Ajmer on the West, Kishengarh on the North and by Bhinai on the South?

(h) Is it a fact that the General Purposes Sub-Committee of the Retrenchment Committee, which has dealt with the question of retrenchment in Ajmer, considered the question of medical requirements of Ajmer-Merwara and declined to recommend the closing of any dispensary as a measure of retrenchment, being of opinion that the number of dispensaries in Ajmer-Merwara was below the minimum medical requirements of the district?

(i) Do Government propose to re-establish the dispensary at Ramsar?

Sir Frank Noyce: (a) Yes.

(b) The building was maintained by the Dispensary Fund.

(c) The facts may be as stated, but Government have no information.

(d) and (e). Yes.

(f) No.

(g) If there is any dissatisfaction, it is hardly warranted since Ramsar is connected by a good road with Nasirabad, 10 miles away, at which there is a hospital.

(h) Government have not yet seen the report of the General Purposes Sub-Committee on Ajmer-Merwara.

(i) Not at present.

RATIO OF EUROPEAN, ANGLO-INDIAN AND INDIAN TIME-KEEPERS IN THE PUBLIC WORKS ENGINEERING DEPARTMENT.

184. ***Rao Bahadur S. R. Pandit** (on behalf of Sardar G. N. Mujumdar):

(a) Will Government be pleased to state what is the ratio of Europeans, Anglo-Indians and Indians for the last ten years in the cadre of Time-keepers in the P. W. Engineering Department, Great Indian Peninsula Railway?

(b) Is it a fact that the vacancies in the Sub-Inspector Permanent-way Inspectors rank are filled in by promotion from Time-keepers and Apprentice Plate-layers?

(c) If so, will Government state how many vacancies were filled in every year from Time-keepers and Apprentice Plate-layers?

(d) How many candidates have qualified for the post of Sub-Inspector Permanent-way Inspectors?

(e) Are there any qualified men (for S. I. P. W. Inspectors' Posts) who belonged to the Apprentice Plate-layer ranks, but are not promoted to the S. P. W. I.? What is the proportion of candidates qualified for S. P. W. I. from Apprentice, Plate-layers and Time-keepers in the P. W. Engineering Department but not promoted to the S. P. W. Inspectors?

(f) Will Government state what is their policy in making the selection for the posts of the S. P. W. Inspectors?

Sir Alan Parsons: (a), (d) and (e). Government regret that they cannot undertake to collect the information required as it would entail a disproportionate expenditure of time and labour.

(b), (c) and (f). Government have no information. Such matters are within the discretion of Railway Administrations.

APPRENTICE PLATE-LAYERS APPOINTED AS PERMANENT WAY SUB-INSPECTORS.

185. ***Rao Bahadur S. B. Pandit** (on behalf of Sardar G. N. Mujumdar):
(a) Will Government please state what expenditure is incurred by them on each apprentice, who qualifies for the S. P. W. Inspectors post in the P. W. Engineering Department, Great Indian Peninsula Railway?

(b) Do Government propose to discontinue the Apprentice Plate-layer system, with a view to make retrenchment?

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

(b) The matter is within the competence of the Agent, Great Indian Peninsula Railway, to decide and Government do not propose to interfere. I am, however, bringing the Honourable Member's question to his notice.

REVERSION TO TIME-KEEPERS POSTS OF CERTAIN PERMANENT WAY SUB-INSPECTORS.

186. ***Rao Bahadur S. B. Pandit** (on behalf of Sardar G. N. Mujumdar):
(a) Is it a fact that certain S. P. W. Inspectors who were drawing Rs. 140 or so in the P. W. Engineering Department, Great Indian Peninsula Railway, were reverted to their Time-keepers' posts on Rs. 80 after four or five years?

(b) Is it a fact that the application for reconsideration submitted by some of the reverted temporary S. P. W. Inspectors was not sent up to the Railway Board by the officer in charge?

(c) If so, are Government prepared to make inquiries in this behalf and take proper steps to remove the injustice, if any, done to the persons concerned?

Sir Alan Parsons: (a) and (b). Government have not the information.

(c) The matter is within the competence of the Agent, Great Indian Peninsula Railway, to decide and Government do not propose to interfere. I am, however, bringing the Honourable Member's question to his notice.

CRITICISMS OF THE DELHI SEWAGE FARM.

187. ***Mr. E. F. Sykes:** (a) Have Government seen the criticisms of the Delhi Sewage Farm in a recent report on the sanitary conditions of Delhi?

(b) What action do Government propose to take on the question?

(c) What immediate steps do they propose to take to abate the nuisance?

(d) Under whose advice was the farm instituted?

(e) Will Government please lay on the table the report of their adviser?

Sir Frank Noyce: (a) I am sure, Sir, to what report the Honourable Member is referring. The matter has, however, come to the notice of the Government of India in the note recorded by their Public Health Commissioner on the annual Health Report of the Delhi province for the year 1930.

(b) A scheme for installing artificial means of dealing with the sewage in preference to land treatment is being prepared, but as the scheme is likely to be costly it will probably not be possible to undertake it in the near future.

(c) Work on the laying of pipes for supplying the villages on the outskirts of the Farm with filtered water is in hand, and when it is finished a good deal of the nuisance caused by seepage will be removed. The quantity of sewage dealt with on the land has also been reduced by making full use of the existing installation of sprinkling filters.

(d) The Farm was established on the advice of the Delhi Town Planning Committee and the site was selected by the Public Works Department.

(e) Extracts from the reports have been placed in the Library of the House.

Mr. E. F. Sykes: With regard to part (c), the nuisance to the villagers has been abated, but what about the nuisance to the travellers along the Mathura road?

Sir Frank Noyce: It is largely a matter of funds and the Honourable Member is aware of the difficulties in that connection.

APPOINTMENT OF MUSLIMS TO THE NORTH WESTERN RAILWAY MEDICAL SERVICE.

188. ***Mr. M. Maswood Ahmad** (on behalf of Shaikh Sadiq Hasan): (a) Will Government please state the total number and of them the number of Muslims and non-Muslims in each of the following cadres of the North Western Railway Medical Department:

- (i) Divisional Medical Officers:
- (ii) Assistant Surgeons:
- (iii) Sub-Assistant Surgeons:
- (iv) Head Clerks:
- (v) Clerks: and
- (vi) Dispensers?

(b) In case the number of Muslims in the North Western Railway Medical Service is inadequate, do Government propose to take steps to appoint more Muslims?

Sir Alan Parsons: (a) (i). Three, of whom one is a Muslim.

(ii) Twenty-five, of whom three are Muslims.

(iii) Ninety-eight, of whom nine are Muslims.

(iv), (v) and (vi). Government have no information.

(b) District Medical Officers are recruited for all the State-managed Railways and not separately for the North Western Railway. As regards the subordinate staff, the Agent, North Western Railway, is aware of the policy of Government to prevent the preponderance of any particular community in railway service, and Government have no reason to believe that this policy is not being followed on the North Western Railway.

RECRUITMENT OF ASSISTANT SURGEONS ON THE NORTH WESTERN RAILWAY.

189. ***Mr. M. Maswood Ahmad** (on behalf of Shaikh Sadiq Hasan): (a) Will Government please state what is the procedure adopted in the recruitment of the Assistant Surgeons on the North Western Railway? Is it through Selection Boards?

(b) If so, how many Selection Boards were held so far?

(c) Are there any instances of recruitments when they were appointed first and then produced before the Selection Board for formal approval?

(d) If there are any instances, will Government please state the number of Hindus, Muslims and Sikhs so appointed?

Sir Alan Parsons: (a) Recruitment of Assistant Surgeons on the North Western Railway is made through Selection Boards.

(b) Two.

(c) and (d). In two instances appointments of Assistant Surgeons were made against temporary vacancies for short periods without a Selection Board. One of these temporary Assistant Surgeons was a Sikh and the other a Hindu. Both appeared before a Selection Board which was subsequently convened and they and three other candidates then selected have received appointments.

NUMBER OF INDIAN MEDICAL DEPARTMENT ASSISTANT SURGEONS ON THE NORTH WESTERN RAILWAY.

190. ***Mr. M. Maswood Ahmad** (on behalf of Shaikh Sadiq Hasan): (a) What was the number of Indian Medical Department Assistant Surgeons on the North Western Railway?

(b) Has this number been reduced recently?

(c) If so, from what date?

(d) How many have been so reduced?

Sir Alan Parsons: (a) Fourteen.

(b) to (d). The North Western Railway have four more Military Assistant Surgeons than its sanctioned cadre. On the other hand the other State-managed Railways have six Military Assistant Surgeons less than their sanctioned cadre. The excess on the North Western Railway will be removed by transferring Military Assistant Surgeons to the other State-managed Railways as vacancies occur.

STAFF OF THE SECURITY PRINTING INDIA, CURRENCY NOTE PRESS AND CENTRAL STAMP STORES AT NASIK.

191. ***Mr. M. Maswood Ahmad** (on behalf of Nawab Naharsingji Ishwar-singji): Will Government be pleased to state:

(a) the total number of permanent men (pensionable, non-pensionable and on contract) working in the Security Printing India, Currency Note Press and Central Stamp Stores at Nasik Road, *excluding* pattawalas and the Watch and Ward Department giving the following details about all the Government servants referred to above individually; (1) Name; (2) Designation; (3) Grade with present pay; (4) Educational qualifications where necessary; and (5) Caste to which he belongs, if a Hindu, giving his sub-caste, *i.e.*, Brahmin, Bania, etc.

- (b) whether it is a fact that there are only 5 permanent Muslims in all the three concerns referred to in part (a) above; and
 (c) the total number of Muslims and non-Muslims drawing a salary of Rs. 100 per month and above?

The Honourable Sir George Schuster: (a) There are 120 employees of these categories. The preparation of a list giving the details asked for would involve an expenditure of time and labour which cannot at present be spared.

(b) Yes, and in addition, there are 17 Muslims in the Watch and Ward.

(c) Muslims 2, including one in the Watch and Ward. Non-Muslims 70, including gazetted officers, Europeans, Anglo-Indians and Indians.

APPOINTMENT OF MUSLIMS IN THE SECURITY PRINTING, INDIA, CURRENCY NOTE PRESS AND CENTRAL STAMP STORES.

192. ***Mr. M. Maswood Ahmad** (on behalf of Nawab Naharsingji Ishwar-singji): Will Government be pleased to state:

- (a) the years in which the following concerns began working:
 (1) Security Printing, India, (2) Currency Note Press, and
 (3) Central Stamp Stores;
 (b) whether Government orders were issued prior to the commencement of these concerns to give preference to Muslims in Government service;
 (c) if the reply to part (b) above is in affirmative, why so few Muslims were selected and what action Government propose to take for the recruitment of Muslims in future and for promotion of those already in the service there to ministerial as well as non-ministerial heads of offices as belonging to a minority community; and
 (d) out of 5 permanent Muslims now working, how many were directly appointed and how many were transferred from other Government offices?

The Honourable Sir George Schuster: (a) (1) 1925.

(2) and (3) 1928.

(b) No.

(c) The first part of the question does not arise. Steps will be taken to recruit more Muslims against vacancies both by promotion and fresh recruitment, but there is little likelihood of any vacancies in the near future.

(d) There are 22 Muslims now working, out of whom four were transferred from other Government offices and the rest appointed directly.

APPOINTMENT OF APPRENTICES TO THE SECURITY PRINTING, INDIA AND THE CURRENCY NOTE PRESS.

193. ***Mr. M. Maswood Ahmad** (on behalf of Nawab Naharsingji Ishwar-singji): Will Government be pleased to state:

- (a) The number of apprentices selected on the technical side in the Security Printing, India, and the Currency Note Press in different grades giving their caste and qualifications;

- (b) of these how many were provided with permanent jobs and how many were sent away either duly trained or retrenched without completion of course and the reasons for the latter;
- (c) whether it is a fact that two Muslim apprentices with previous experience in printing in England were engaged;
- (d) whether they were promised to be provided with some permanent jobs by the Master, Security Printing, India, before appointment;
- (e) whether Government are aware that one of them was ill-treated by his Anglo-Indian and European superiors: and is it a fact that he was subsequently sent away on account of reduction of establishment;
- (f) what the total strength of apprentices was when one Muslim apprentice was sent away and reasons for so doing;
- (g) whether there are any permanent vacancies on the technical side; and
- (h) if so, the reasons for not appointing Muslims to any of them?

The Honourable Sir George Schuster: (a) A statement containing the required information is laid on the table. Statements giving similar information were laid on the table in reply to parts (c), (d) and (g) of the starred question No. 261 by Diwan Bahadur T. Rangachariar on the 2nd February, 1931.

(b) No apprentices have been provided with permanent jobs. Four have finished their training, of whom one proceeded to England, one has been given a scholarship to England for further study, one completed his course recently and left and the fourth has been retained on daily pay; two have resigned. Three have been dismissed, one on account of incompetence and idling, one for irregular attendance and bad work and the third for gross carelessness resulting in serious damage to a machine.

(c) Yes.

(d) and (e). No.

(f) There were 18 apprentices then working. The Muslim apprentice was the one dismissed on account of incompetence and idling.

(g) Yes.

(h) They are not at present being filled on account of diminished work. The claims of any Muslim qualified for appointment will be duly considered when they are filled.

Statement.

Grade.	No.	Race or Religion.	No.	Qualifications (Educational or other).	No.
A . . .	20	Europeans	2	First year Arts	2
B . . .	5	Statutory Indians	9	Matriculates	5
		Hindus	9	School Leaving Certificate	1
		Indo-Portuguese Christian.	1	Senior Cambridge	1
		Muslims	2	Junior Cambridge	1
		Sikh	1	8th Standard	4
		Christian	1	7th Standard	5
				3 Years' desultory training in England.	2
				Technical School 3rd year	1
				Below 6th Standard	3

PUBLICATION BY NEWSPAPERS OF PROCEEDINGS OF THE LEGISLATIVE ASSEMBLY.

194. ***Mr. Gaya Prasad Singh** (on behalf of Sardar Sant Singh): (a) Will Government be pleased to state if under any Ordinance or Rules made or orders issued by any executive authority newspapers could be penalised for publishing reports of the proceedings of this House?

(b) If the reply to part (a) be in the affirmative, will Government kindly state reasons for issuing such rules or orders?

(c) Are Government aware that such penalising of newspapers is regarded as a serious encroachment on the privileges of this House?

The Honourable Sir James Crerar: (a), (b) and (c). No rules or orders of the kind suggested by the Honourable Member have been issued. The right of free speech secured to Honourable Members of this House by section 67 (7) of the Government of India Act is not affected by any Ordinance. I would, however, point out that the provisions of the section do not apply to the publication of reports by newspapers, of which the liability is determined by other provisions of law, including the Indian Press Act of 1931, and by the provisions of the Ordinances, in particular, by section 63 of Ordinance No. II of 1932.

Mr. B. Das: Do I take it that the publication of the reports of this Assembly will be subject to the provisions of these Ordinances and laws which my Honourable friend quoted just now?

The Honourable Sir James Crerar: In certain circumstances it is possible that a publication might fall within these provisions.

Mr. S. C. Mitra: Even though the speech may have been allowed by the President and the Honourable the Leader of the House took no objection?

The Honourable Sir James Crerar: I think it is possible that that might happen, but I really cannot undertake to answer a hypothetical question.

Mr. B. Das: In that case is it not fair on the part of the Government of India to specify the questions of Honourable Members which may be banned under these Ordinances and Press Acts?

The Honourable Sir James Crerar: I am afraid I could not undertake so embarrassing a duty.

Mr. B. Das: Will the Honourable Member see that a special officer is appointed for that purpose?

(No answer was given.)

Mr. B. Das: Is it the intention of Government to prosecute the Indian press for publishing speeches of Honourable Members of this House without Government taking steps to ban those speeches?

The Honourable Sir James Crerar: My reply is that the circumstances of the publication must be taken into consideration, and what action would be taken by the Executive Government or what view might be taken by the courts is purely a hypothetical question which I cannot answer.

Mr. B. Das: Will the Government of India leave the consideration of these subjects to the Provincial Governments, or will they retain in their

hands the power of revision when the press is prosecuted, or will they submit those cases to this House to see whether the press was rightly prosecuted?

The Honourable Sir James Crerar: No, Sir; I cannot give any such undertaking.

Mr. B. E. Puri: Will the Honourable Member consider the feasibility of holding the meetings of the Assembly *in camera* and exclude the press altogether, in order to save them from being exposed to unnecessary danger, as they would have no means of knowing what portions of the proceedings are or are not allowed to be published? Are the Government of India prepared to give some directions for the guidance of the press and for the guidance of the Honourable Members themselves?

The Honourable Sir James Crerar: I cannot add to my reply to this question. It is quite plain that, in endeavouring to answer the Honourable Member's question, I must embark on a purely hypothetical field, and I cannot undertake to do so.

Mr. K. C. Neogy: Will the Honourable Member consider the advisability of publishing model speeches for the guidance of Honourable Members of this House? (Laughter).

Mr. Lalchand Navarai: Will the Honourable Member be pleased to enlighten the House if there is such a practice in England or in Europe where the press has been penalised for publishing any portions of speeches of Members made in Parliaments?

The Honourable Sir James Crerar: Yes; that is certainly the case and I would refer the Honourable Member to the relevant passages in Sir Erskine May's "Parliamentary Practice".

EXPULSION OF FATHER ELWIN FROM THE NORTH-WEST FRONTIER PROVINCE.

195. ***Mr. Gaya Prasad Singh:** (a) Is it a fact that Father Elwin, an Oxford Professor, had been in the North-West Frontier Province only for about five days, when he received orders from the Deputy Commissioner to leave the Province by the first available train?

(b) Has the attention of the Government been drawn to his Press statement published in the *Hindustan Times*, dated the 27th January, 1932, in the course of which he says that "all the routes to the province were guarded by armed sentries, while cities like Kohat were bristling with soldiers and barbed wires"; that "the Red Shirts had nothing to do with Moscow"; that "lathi charges in Peshawar were exceptionally severe"; and that "beneath the apparent quiet there are noticeable signs of indignation especially among the well-to-do people. The situation is none-the-less critical. My impression is that these measures of repression can never be successful"?

(c) Is it a fact that Father Elwin asked the Deputy Commissioner, for an interview; but the latter refused? If so, why?

(d) Is it a fact that "a First class European passenger coming into Peshawar, was mistaken for Father Elwin and was taken out of the compartment, and detained for some time"? Who was this unfortunate gentleman so treated?

(e) What is the offence of Father Elwin, and is he going to be put on his trial? If not, why not? -

Sir Evelyn Howell: The reply to questions regarding Father Elwin are as follows:

(a) and (b). Yes.

(c) Yes. The Deputy Commissioner did not consider any useful purpose would be served by an interview.

(d) No.

(e) Father Elwin, so far as the Government of India are aware, has committed no offence and is therefore not going to be put on trial.

Mr. Gaya Prasad Singh: Will my Honourable friend, Maulvi Muhammad Shafee, supplement this answer of the Foreign Secretary, with whom he now seems to be hand in glove?

Maulvi Muhammad Shafee Daoodi: I do not think this is the place for passing words like these.

OVERCROWDING AND CATERING ON THE GRAND TRUNK EXPRESS.

196. ***Rao Bahadur M. C. Rajah:** (a) Are Government aware that there is a lot of overcrowding in the second class compartments in both Up and Down Grand Trunk Expresses owing to the small number of such compartments provided therein, and that as a result second class passengers are put to a lot of inconvenience and are sometimes compelled to travel in the intermediate class? Do Government propose to provide more second class compartments in both these trains, at least during the rush season?

(b) Are Government aware that very often the locks and bolts inside the compartments of the said trains, especially in the upper class carriages, are not in proper working order? Do Government propose to test each and every compartment of the Grand Trunk Express trains to see that everything is in order, before it is passed on as fit for being attached to the train?

(c) Are Government aware that the present Indian restaurant car attached to these trains caters only for vegetarian passengers? Do Government propose to introduce a restaurant car which will cater also for the non-vegetarian travelling public?

Sir Alan Parsons: (a) No. The actual composition of trains is a matter for Railway Administrations to determine with reference to local conditions.

(b) No. Government have no doubt that Railway Administrations realise their responsibility in such matters.

(c) No. I am, however, bringing the Honourable Member's question to the notice of the Railway Administrations concerned with a view to their considering the feasibility of arranging to cater for non-vegetarian passengers also on sections over which this is not being done at present.

INCONVENIENT TIMINGS OF THE GRAND TRUNK EXPRESS.

197. ***Rao Bahadur M. C. Rajah:** (a) Are Government aware that the present timings of arrival and departure both at Delhi and Madras of the Grand Trunk Express are greatly inconvenient to the through travelling public?

(b) With reference to the reply of Mr. Parsons to part (g) of starred question No. 837 put by Mr. Sitaramaraju in the Legislative Assembly on the 23rd September, 1931, will Government be pleased to state what steps have been taken to improve the present timings substantially in the coming revision of the timings of the Grand Trunk Express?

Sir Alan Parsons: (a) As I informed an Honourable Member previously in reply to his question No. 837 on the 23rd September, 1931, the inconvenience caused by the present timings is recognised.

(b) There has been no change in the circumstances which necessitated the present timings to permit of any substantial change being made in them.

RETRENCHMENT CONCESSIONS.

198. ***Rao Bahadur M. C. Rajah:** (a) Will Government be pleased to state for how long it is proposed to keep the present retrenchment concessions in force?

(b) Are Government aware that there is a strong feeling that the retrenchment concessions now offered are far below those offered in 1921, when retrenchment was effected as a result of the Inchcape Committee's recommendations?

The Honourable Sir George Schuster: (a) The concessions will remain in force until the cases of personnel selected for discharge in accordance with the present retrenchment operations have been disposed of.

(b) Government have no reason to suppose that the terms now in force are regarded as inadequate. The extra statutory concessions now given will cost Government more in the aggregate than the concessions based on the 1923 model would have done because all are treated alike, though none extravagantly.

ARREST OF MR. J. N. SEN GUPTA ON BOARD AN ITALIAN SHIP.

199. ***Rai Bahadur Sukhraj Rai:** (a) Will Government be pleased to state whether it is a fact that Mr. J. M. Sen Gupta, was arrested in Bombay under Regulation III of 1818 on the deck of an Italian ship before he landed in Bombay?

(b) Is it a fact that the Captain of the ship protested against the manner in which the Police were trying to arrest a person under the protection of the Italian Flag?

(c) Will Government please state whether Mr. Sen Gupta gave any indication of what was in his mind before he left England or when he was on board the ship that he would do something evil?

(d) Under whose orders, why and for what reasons was the arrest made? Did the Government of India issue any special instructions on the subject?

(e) Will Government please state why the arrest was not delayed till after he had landed in Bombay and given some indication of his views on the political situation in the country?

(f) Is it proposed to penalise even a man for his supposed previous utterances and actions?

The Honourable Sir James Orerar: (a) and (b). I am making enquiries.

(c) to (f). If the Honourable Member will refer to the Preamble to Regulation III of 1818, he will observe that the powers given are preventive, and are intended to be exercised when necessary to maintain internal tranquillity. The Government of India were satisfied that it was necessary in all the circumstances to place Mr. Sen Gupta under restraint.

Mr. C. C. Biswas: Are the Government satisfied that in the circumstances in which the arrest was made, it was legal either under the law of the land or under the rules of international law?

The Honourable Sir James Orerar: I have no reason whatever to suppose that that is not the case.

Mr. C. C. Biswas: Has the attention of the Government been drawn to the comments in a recent number of the *Calcutta Weekly Notes* in which the legality of the arrest was questioned?

The Honourable Sir James Orerar: I do not think I have seen the particular article to which the Honourable Member refers.

Mr. K. C. Neogy: Were the papers relating to the charge against Mr. Sen Gupta ever laid before a High Court Judge?

The Honourable Sir James Orerar: No.

Mr. K. C. Neogy: Do I take it then that the Government have departed from the practice which was laid down during the Viceroyalty of Lord Reading in this matter, that no action against anybody would be continued under Regulation III unless the papers relating to the charge against him had been laid before at least one if not two High Court Judges, after the arrest had been made?

The Honourable Sir James Orerar: No; there was no undertaking to that effect and no such undertaking has been infringed.

Mr. K. C. Neogy: May I remind the Honourable Member of a speech delivered by Lord Reading in this House where he referred to that practice?

The Honourable Sir James Orerar: No; I am not aware of any such speech.

Mr. Arthur Moore: Is it not a fact that under Regulation III there is no charge?

The Honourable Sir James Orerar: That of course is true, if charge is used in the strict sense of the Procedure Code.

Mr. S. C. Mitra: May we take it that these cases are not laid before any Court or any Judges who have to give some opinion about the criminality or otherwise of the persons charged?

The Honourable Sir James Crerar: Government have not given any undertaking to submit all cases in which they take action under this Regulation to High Court Judges or any Judge.

Mr. K. C. Neogy: Do the Government of India apply their minds to these individual cases dealt with under Regulation III or do they leave it to the Provincial Governments?

The Honourable Sir James Crerar: The Government of India apply their minds to the particular cases in which action is taken.

Mr. S. C. Mitra: May I take it that the Government of India in this case means the Secretary and none else—no other Members of the Executive Council?

The Honourable Sir James Crerar: No, Sir.

Mr. Gaya Prasad Singh: May I know what is the offence for which Mr. Sen Gupta has been arrested?

The Honourable Sir James Crerar: I refer the Honourable Member to the Preamble to the Regulation.

Mr. Gaya Prasad Singh: The specific offence, I said. The Preamble is too comprehensive and wide.

FLAGS PERMITTED TO BE FLOWN IN INDIA.

200. ***Mr. Bhuput Sing:** (a) Will Government be pleased to state whether they have expressly put any ban on the flying of the national flag in India?

(b) If so, what is the reason for this action?

(c) Are they aware that the flag is not the flag of the Congress alone but has been accepted by almost every section of Indians to be the emblem of national unity in this country?

(d) Is it true that the flag has been forcibly pulled down at many places and the Union Jack put in its place? If so, what are the names of those places?

The Honourable Sir James Crerar: (a) and (d). I would refer the Honourable Member to the answer given on the 3rd February, 1932, to parts (a) and (c), respectively, of Mr. S. C. Mitra's question on the subject.

(b) Does not arise.

(c) No.

REPRESENTATIONS FROM RELIGIOUS LEADERS FOR THE RELEASE OF MR. GANDHI.

201. ***Mr. Bhuput Sing:** (a) Will Government be pleased to state whether it is a fact that 106 prominent religious leaders of America have cabled to the British Premier appealing for the release of Mahatma Gandhi and adoption of a policy of co-operation for the solution of the Indian problem?

(b) Is it a fact that a number of British evangelists and a man of letters of the eminence of Bertrand Russel have done the same thing?

(c) Are Government aware that Mr. Lansbury, the Labour Leader, and Commander Kenworthy have also condemned the present policy of repression in this country?

The Honourable Sir James Crerar: (a), (b) and (c). I have no information.

ADVANCE OF MONEY BY GOVERNMENT TO THE IMPERIAL GYMKHANA CLUB, NEW DELHI.

202. ***Mr. Lalchand Navalrai:** (a) Will Government be pleased to state the terms on which they advanced rupees five lakhs several years ago to the Imperial Gymkhana Club in New Delhi?

(b) Has the club, up to the present, fulfilled the terms of repayment on which this grant was made?

(c) Have Government any doubt as to the club's ability to repay the loan?

(d) How many European and how many Indian members belong to this club?

(e) Has any other club in New Delhi received any assistance from the Government of India?

The Honourable Sir George Schuster: (a) The loan of Rs. 5 lakhs was sanctioned in March, 1927, subject to the following conditions:

- (1) that the amount of the loan with interest was repaid in five annual instalments of Rs. 8,500 each commencing on the 1st October, 1928, and 30 further annual instalments of Rs. 30,000 each commencing on the 1st October, 1933;
- (2) that the club house and necessary appurtenances be erected and completed within two years, failure of which would involve certain penalties. The property to be insured against loss or damage by fire, etc., and mortgaged to Government until liquidation of the loan;
- (3) that, subject to certain reservations, not less than 75 per cent. of the residential quarters erected should be reserved for the use of Government servants; and
- (4) that Government should nominate a Government official, who is a member of the club, to serve on the Committee of Management.

(b) Yes.

(c) Presumably the Honourable Member refers to the results of the accounts for the last year, which show a deficit. These accounts have been examined by Government. The Club has undertaken certain retrenchments and with the exercise of due economy should be in a position to meet its liabilities.

(d) 280 Europeans and 56 Indians.

(e) No.

Mr. Lalchand Navalrai: Is there any likelihood that this liability will be discharged in a short time?

The Honourable Sir George Schuster: The Honourable Member will appreciate from the answer which I have given that the capital liability has not got to be repaid in a short time: because it extends over thirty annual instalments commencing on the 1st October, 1933. Therefore that allows a fairly long period for repayment.

REFORMS FOR THE NORTH-WEST FRONTIER PROVINCE.

203. ***Mr. B. Das:** With reference to Gazette Extraordinary of 25th January, 1932, regarding the constitution of the North-West Frontier Province as a Governor's province, will Government be pleased to state if the present constitutional reforms for the North-West Frontier Province are to be based on the present Government of India Act?

The Honourable Sir George Rainy: The reply is in the affirmative.

SCALE OF SALARIES FOR THE GOVERNOR, EXECUTIVE COUNCILLORS AND MINISTERS IN THE NORTH-WEST FRONTIER PROVINCE.

204. ***Mr. B. Das:** (a) Will Government be pleased to state if the scale of salaries fixed for the Governor and the Executive Councillors of the North-West Frontier Province are based on the existing standard of administration in India?

(b) If the reply to part (a) be in the affirmative, will Government be pleased to state the number of Executive Councillors and the number of Ministers that are being proposed to take office in the province of North-West Frontier?

(c) What will be the scale of salary of Ministers in the province?

The Honourable Sir George Rainy: (a) Yes.

(b) and (c). It will be seen from the Gazette Extraordinary of the 25th January, 1932, that only one Member of the Executive Council is contemplated for the North-West Frontier Province. The appointment of Ministers, their number and salary is governed by the provisions of section 52 of the Government of India Act. It is not contemplated, however, that there will be more than one Minister in the province.

Mr. B. Das: If the administration of the North-West Frontier Province, as the Honourable Member has just stated, is to be designed under the present Government of India Act, is the Honourable Member aware that the Bray Committee recommended that the Province would require only a little more than a lakh of rupees for its present administration?

The Honourable Sir George Rainy: I am afraid I did not follow my Honourable friend's question.

Mr. B. Das: Is the Honourable Member aware that the Sir Denys Bray Committee on Frontier Administration reported that the administration of the North-West Frontier Province would only require a little more than a lakh of rupees as additional financial assistance from the Central Government, and will the Honourable Member let us know the financial aid the Government contemplate making to that province?

The Honourable Sir George Rainy: I think clearly the Honourable Member should give notice of that.

Dr. Ziauddin Ahmad: Will the Member of the Executive Council be an official or a non-official?

The Honourable Sir George Rainy: I think, Sir, it is intended that he should be an official.

Dr. Ziauddin Ahmad: And there will be only one Minister, one official Executive Councillor and one Chief Commissioner, who will also be a Member of the Executive Council so that the non-official will be in the proportion of one to two?

Sir Abdur Rahim: Is there any model for this sort of arrangement? Does this state of things prevail in any other province?

The Honourable Sir George Rainy: I am not quite sure what state of things my Honourable friend refers to.

Sir Abdur Rahim: One Executive Councillor in a Governor's province and one Minister?

The Honourable Sir George Rainy: I am speaking without reference—I do not exactly recollect what the arrangement in Assam is,—but so far as I recollect I do not think there is an identical constitution of the Government in any other province.

Mr. K. Ahmed: In view of the statement made on the first day, the 25th January last, by His Excellency the Viceroy that the North-West Frontier Province will by no means be inferior to any other Governor's province in India, can Government face the music in contravention of their statement made again and again, and a copy of which has been published and distributed among the Members on the very first day when this Assembly was considering the motion of my friend Sir Hari Singh Gour on the 1st of February last, when the discussion was going on raising the general issues arising at the arrest and internment of Mr. Gandhi. The correspondence passed, etc.

The Honourable Sir George Rainy: I am not sure that I have fully followed my Honourable friend's question, (Laughter), but if he suggests that the remarks of His Excellency to which he referred meant that the province was to have at least as many Members of Government as any other province, I think it would be a very strained interpretation indeed.

Mr. K. Ahmed: Sir, in view of the question put by Sir Abdur Rahim, the Leader of the Independent Party, and in view of the fact that the Governor General made a statement in this House,—and the Government of India have given publicity to it—giving an answer to Mahatma Gandhi that the Frontier Province hereafter will enjoy exactly the same status as other provinces in India, how do Government justify their statement of to-day made now by the Honourable the Leader of the House.

The Honourable Sir George Rainy: It cannot be exactly the same as all the other provinces because there are differences between provinces. . . .

Mr. K. Ahmed: Is it not a fact that the answer given by the Leader of the House and the statement made by the Government of India are in contravention of their own statement made here, and in view of that fact do Government propose to enlighten this House if they propose to make any further statement in order to remove the clouds?

The Honourable Sir George Rainy: I do not admit the assumption made in my Honourable friend's question.

Sir Cowasji Jehangir: It is the opinion of Government that the suggested constitution of the North-West Frontier Province is in keeping with the statement made by His Majesty's Government at the Round Table Conference?

The Honourable Sir George Rainy: To what statement does my Honourable friend refer?

Sir Cowasji Jehangir: A statement was made at the Round Table Conference with regard to the North-West Frontier Province, which statement, I understand, was repeated in this House or at some Durbar in this country. I ask whether the suggested constitution for the North-West Frontier Province, is in the opinion of Government in keeping with that statement?

The Honourable Sir George Rainy: I think the statement to which my friend refers covered two distinct matters. One was the position of the Frontier Province under the new constitution, and the other was the immediate establishment of a Governor's province in the North-West Frontier Province under the existing Act. The action now being taken is certainly in accordance with the latter part of the statement, and quite obviously also it is not the fulfilment of the earlier part of the statement.

Mr. Arthur Moore: May I ask whether the superiority and efficiency of a Government is in direct or in inverse ratio to the number of Members composing the Government?

Dr. Ziauddin Ahmad: Will the Government consider the desirability of appointing the Members of the Executive Council only for a limited period, till this new Government of India Act comes into operation?

The Honourable Sir George Rainy: Clearly, Sir, the appointment of Members of the Executive Council would not be a bar to the introduction of the new constitution in any circumstances.

Mr. B. V. Jadhav: May I know, Sir, whether there is any provision in the Government of India Act that the number of non-official Executive Councillors should be equal to the number of official Executive Councillors?

The Honourable Sir George Rainy: I am not aware of any such provision.

Mr. D. K. Lahiri Chaudhury: Is it a fact that the Government officers in the province who are administering the province are not capable of discharging their executive duties?

The Honourable Sir George Rainy: I am afraid I have not caught the Honourable Member's question.

Mr. D. K. Lahiri Chaudhary: Will the Honourable the Leader of the House inform us whether the executive officers in charge of the administration of the Frontier Province are quite capable of discharging their administrative duties?

The Honourable Sir George Rainy: They are quite capable of carrying out their administrative duties.

Mr. K. Ahmed: In view of the fact that the Government of India Act of 1919, which came into being as a result of the Montagu-Chelmsford Reforms, does not describe the size in its length and breadth of the kind of Government, that the Government of India are contemplating for the province, after the declaration made by the Honourable the Leader of the House, do Government propose to amend the Government of India Act of 1919 before they launch any reforms and the gentlemen proceed to the Frontier Province to make inquiries, and give effect to this kind of reform, because it is not contained in the Government of India Act? If the answer is in the negative (Laughter)—(*Some Honourable Members:* "Go on, go on, please"),—if the answer is in the negative, Sir, will Government please say under what procedure of law and statute or enactment they are going to give reforms of the kind enunciated by the Honourable the Leader of the House to the Frontier Province?

The Honourable Sir George Rainy: My answer, Sir, would be rather in the interrogative than in the negative, but I may say at once that the statute under which we are taking proceedings is the Government of India Act.

ALLOCATION OF SEATS IN THE INDIAN LEGISLATURE FOR THE NORTH-WEST FRONTIER PROVINCE.

205. ***Mr. B. Das:** (a) Has the attention of the Government of India been drawn to the statement published in the press that the Frontier Reforms Advisory Committee has recommended that the North-West Frontier Province will be allocated four seats in the Indian Legislative Assembly and two seats in the Council of State?

(b) Are these recommendations in accordance with the present practice in other provinces?

(c) Will Government be pleased to state the principles that govern allocation of the number of seats for the provinces in the Central Legislature?

(d) Do Government wish to make any departure in the case of the North-West Frontier Province from these? If any departure is contemplated, do Government propose to make similar changes in other advanced provinces?

The Honourable Sir George Rainy: With your permission, Sir, I will deal with questions Nos. 205 and 206, together.

Government have seen the press report referred to. The Chief Commissioner's recommendations have just been received and are under consideration. I am not therefore in a position to attempt to reply in detail on the point raised by the Honourable Member.

ALLOCATION OF SEATS IN THE INDIAN LEGISLATURE FOR THE NORTH-WEST FRONTIER PROVINCE.

†206. ***Mr. B. Das:** (a) Will Government be pleased to state if the following table does not give the true position of seats in the Central Legislature of different provinces?

Province.	1931 census.	Assembly.	Council of State.
Assam	87,84,000	4	1
Central Provinces	1,54,72,000	6	2
Punjab	2,35,80,000	12	4
United Provinces	4,84,23,000	16	5
Bihar and Orissa	3,75,90,356	12	3

(b) Is it not a fact that 1931 census gives the population of the North-West Frontier Province as 24,23,000? On what basis do Government propose to allocate four seats in the Assembly and two seats in the Council of State to the North-West Frontier Province people?

MEMBERS OF THE FRONTIER REFORMS ADVISORY COMMITTEE.

07. ***Mr. B. Das:** Are there any official or non-official members on the Frontier Reforms Advisory Committee who have had previous experience of the working of the existing reforms in advanced provinces? If so, who are those?

The Honourable Sir George Rainy: Government have no detailed information in this matter, which is one entirely for the Chief Commissioner.

ALLEGATIONS AGAINST THE DEPUTY CHIEF ACCOUNTS OFFICER, GENERAL BRANCH, EAST INDIAN RAILWAY.

208. ***Dr. Ziauddin Ahmad:** (a) Is it a fact that certain complaints were made against the Deputy Chief Accounts Officer, General Branch, East Indian Railway, about July, 1931?

(b) Is it a fact that a committee of enquiry was appointed by Government to investigate the allegations?

(c) Who were the members of the enquiry committee? Did it include an immediate subordinate of the officer concerned?

(d) Did any member of the Railway Board scrutinise the entire proceedings?

(e) Will Government be pleased to lay all the relevant papers dealing with the enquiry on the table? If not, why not?

(f) Is it a fact that the persons who gave evidence in the enquiry were discharged in spite of the assurances given to them otherwise?

(g) Is it a fact that their appeals were not listened to by the Operating Department on the ground that these persons belonged to the Accounts Department, and by the Accounts Department on the plea that they belonged to the Operating Department?

(h) Do Government propose to settle the question once for all and instruct the Agent accordingly?

(i) Are Government prepared to consider the claims of all these officers in the light of the decisions in the retrenchment scheme?

†For answer to this question, see answer to question No. 205.

Sir Alan Parsons: (a) Yes.

(b) No. The Controller of Railway Accounts was asked to investigate the complaints. He arranged for an investigation by the Chief Accounts Officer, East Indian Railway.

(c) As I have already explained, there was no enquiry committee, but the Chief Accounts Officer was assisted in his enquiry by Mr. Ogden, a senior Accounts Officer of the East Indian Railway, and Mr. Nehru, Deputy Chief Auditor, East Indian Railway. The answer to the second part of the question is in the negative.

(d) Yes.

(e) No. It is not in the public' interest to publish the records of departmental enquiries in such a matter.

(f) Some of the persons who gave evidence in support as well as against the allegations were men employed in temporary posts of ticket checkers in the Traffic Accounts Branch. The whole of this temporary establishment was subsequently disbanded and all the men employed had to be discharged.

(g) No.

(h) There is no question that remains for settlement.

(i) The men referred to had no claims for retention after the work, for which they were engaged, had ended.

Dr. Ziauddin Ahmad: Is it not a fact that these persons were first given an assurance by the Government official who made the enquiries to give evidence that nothing would happen to them afterwards they were punished?

Sir Alan Parsons: The answer to that, as far as my knowledge goes, is in the negative.

Dr. Ziauddin Ahmad: Will the Honourable Member please make enquiries to find out whether what I am saying is true or not?

Sir Alan Parsons: I have given the Honourable Member my answer after having personally made very full enquiries.

Dr. Ziauddin Ahmad: Will the Honourable Member please make enquiries and find out whether that statement of mine is correct?

Sir Alan Parsons: I do not propose to make any further enquiries.

Dr. Ziauddin Ahmad: It means this allegation that the people were first encouraged to give evidence and afterwards were chastised remains a fact and the Government are not going to make any further enquiries about it.

TITLES FOR HINDUS AND MUSSALMANS.

209. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Mr. Muhammad Anwar-ul-Azim): (a) Will Government please state if the title of Diwan Bahadur is awarded both to Hindus and Muslims?

(b) If so, will Government please state the total number of the recipients of this title separately for the Hindus and Muslims?

(c) If it is reserved for Hindus only, will Government please state what is the corresponding title for Muslims?

Sir Evelyn Howell: (a) The title of Diwan Bahadur can be conferred on a Muslim; but it is not so conferred in practice, as it is generally regarded as a purely Hindu title.

(b) I would refer the Honourable Member to the Quarterly Civil Lists issued by Local Governments and Administrations, which contain the required information. The Government of India are not aware of any instance in which the title has been conferred on a Muslim in recent years.

(c) The title is not actually reserved for Hindus, and it could be conferred on Muslims also, if there were reason to believe that it would be acceptable to them.

Mr. A. Hoon: Will the Government be pleased to consider the desirability of conferring some sort of title on Mr. Anwar-ul-Azim?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. Personal remarks are not permitted.

Sir Evelyn Howell: (To Mr. Hoon). Yes, certainly.

Dr. Ziauddin Ahmad: Is the Honourable Member aware that Mr. Anwar-ul-Azim was not putting the question on his behalf but on behalf of the Muslim community?

TITLES FOR HINDUS AND MUSSALMANS.

210. ***Mr. Muhammad Anwar-ul-Azim:** (a) What is the corresponding title for a Muslim in Bengal equivalent to that of a Rajah Bahadur?

(b) Is there any corresponding title for Muslims to that of a Maharaja or a Maharaja Bahadur?

Sir Evelyn Howell: (a) The equivalent title would be "Nawab Bahadur" or "Nawab".

(b) The corresponding Muslim titles are—"Nawab" and "Nawab Bahadur". There are however instances in which the titles of "Maharaja" and "Raja" have been conferred on Muslims.

REPRESENTATION OF MUSLIMS IN THE RAILWAY SERVICES.

211. ***Mr. M. Maswood Ahmad** (on behalf of Seth Haji Abdoola Haroon): (a) Is it not a fact that Government appointed an officer on special duty to prepare a report on the adequate representation of the Muslims and other minority communities in the railway services?

(b) Has the officer submitted any report? Will Government be pleased to lay a copy of the report on the table?

Sir Alan Parsons: (a) Yes.

(b) The report is expected to be submitted in a week or so. Copies of it will be placed in the Library.

Mr. M. Maswood Ahmad: Are Government aware whether the report has been completed or not?

Sir Alan Parsons: My information is that the report is not yet quite complete but that it will be submitted in the course of a week or so.

Dr. Ziauddin Ahmad: Is the Honourable Member certain of this fact?

Mr. President: Order, order.

Mr. M. Maswood Ahmad: Is it a fact that up to the 9th February the report was not completed?

Sir Alan Parsons: My information is that the report is now being prepared but that it is not yet quite complete. That is the information given me by the branch of the Railway Board's office which deals with this matter.

Mr. M. Maswood Ahmad: Have Government informed some Member that the report is complete but that it has not yet been submitted to the Government?

Sir Alan Parsons: I am aware of no such information having been given to any Member of this House by the Government.

ABOLITION OF THE POST OF ASSISTANT CONSERVANCY INSPECTOR AT THE
CENTRAL TELEGRAPH OFFICE.

212. ***Mr. M. Maswood Ahmad** (on behalf of Seth Haji Abdoola Haroon):
(a) Will Government be pleased to state whether it is a fact that the post of Assistant Conservancy Inspector at the Central Telegraph Office, New Delhi, carrying a pay of Rs. 40—1—50 has been abolished and that the present incumbent has been served with a notice of discharge?

(b) Is it a fact that the Director-General of Posts and Telegraphs has decided to entertain one Care-taker at the Central Telegraph Office, New Delhi, on a pay of Rs. 100 per mensem in place of the Assistant Conservancy Inspector?

(c) Is it a fact that formerly there was one Conservancy Inspector on Rs. 100 per mensem and one Assistant Conservancy Inspector on Rs. 40—50 at the Central Telegraph Office, New Delhi, and that since the death of the Conservancy Inspector in January, 1931, the present Assistant Conservancy Inspector has been carrying on all the duties alone?

(d) If the reply to part (c) be in the affirmative, will Government be pleased to state whether any allowance or increased remuneration was given to the Assistant Conservancy Inspector in consideration of his increased responsibilities and of the large saving to Government on account of the pay of the deceased Conservancy Inspector? If not, why not?

(e) If the replies to parts (a), (b), and (c) be in the affirmative, will Government be pleased to state whether an economy will be effected by the discharge of a low-paid official and entertaining an official with a higher pay in these days of financial stringency? If not, will Government be pleased to state reasons for adopting that course?

Mr. T. Ryan: (a) Yes.

(b) No. There were two posts—one of Conservancy Inspector on Rs. 100 and one of Assistant Conservancy Inspector on Rs. 40—50. The latter has been abolished from 15th January, 1932.

(c) The reply to the first part is in the affirmative and that to the second part in the negative.

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

PAY OF THE CONSERVANCY INSPECTOR OF THE TELEGRAPH OFFICE AT SIMLA.

213. ***Mr. M. Maswood Ahmad** (on behalf of Seth Haji Abdoola Haroon): Is it a fact that the Conservancy Inspector in the Telegraph Office at Simla draws a pay of Rs. 100 plus Rs. 20 as hill allowance?

(b) If the reply to part (a) be in the affirmative, will Government be pleased to state whether they have considered the question of bringing under reduction the post of Conservancy Inspector at Simla and employing a lower paid care-taker like the Assistant Conservancy Inspector at New Delhi instead?

(c) Do Government propose to retain the post of Assistant Conservancy Inspector at New Delhi till such time as the present incumbent is not provided elsewhere? If not, why not?

Mr. T. Ryan: (a) Yes.

(b) Yes.

(c) No. The displaced Assistant Conservancy Inspector being illiterate, it was not possible to provide him with another post, and he was accordingly given three months' notice of discharge.

PERCENTAGE OF APPOINTMENTS HELD BY INDIAN CHRISTIANS ON THE SOUTH INDIAN RAILWAY.

214. ***Dr. F. X. DeSouza:** (a) Are Government aware that the percentage of Indian Christians in the several cadres of railway service in the South Indian Railway is 1 per cent. in the officer's, 2 per cent. in the upper subordinates' and 6 per cent. in the lower subordinates' cadres while the Brahmins hold more than 50 per cent. of all appointments in the superior and subordinate cadres?

(b) Is it not a fact that in point of numbers the Indian Christians are more than double of the Brahmin community in Southern India and in point of literacy, they hold the first place, the census figures for 1921 showing per mille an average for Indian Christians (men and women) of 235 and 123, for Hindus 149 and 15, and for Mussalmans 74 and 18?

(c) What are the reasons why the claims of the Indian Christian community have been overlooked, causing this disparity?

(d) Are Government prepared to redress this inequality by appointing qualified Indian Christians to future vacancies, by selecting pupil candidates where available from that community for the various departments and by affording Indian Christians already in the subordinate service the chance to rise to the superior grade?

Sir Alan Parsons: (a) Government are not aware what the percentages of Indian Christians on the South Indian Railway are.

(b) The reply is in the negative.

(c) and (d). Recruitment of staff, both superior and subordinate, for the South Indian Railway is a matter which rests with the South Indian Railway Company. The principles enunciated by the Government of India for recruitment to State-managed Railways in the matter of redressing communal inequalities have been recommended from time to time to the Company-managed Railways including the South Indian Railway.

Dr. F. X. DeSouza: Do the Government of India take any action when the companies do not act up to the recommendations made by them with regard to communal representation on the staff?

Sir Alan Parsons: I may explain to the Honourable Member that the Government of India have no power whatsoever to interfere with the recruitment of persons from particular communities on the Company-managed Railways. They can only recommend to them to follow more or less the same policy as that which the Government of India adopt.

Dr. F. X. DeSouza: If they fail what is the remedy?

Sir Alan Parsons: None, Sir.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member inform the House whether or not it is a fact that all Company-managed Railways have subscribed *in toto* to the rules of the Government of India concerning Indianisation of railways?

Sir Alan Parsons: I am not here dealing with the matter of Indianisation; I am dealing with the matter of proportional representation of different Indian communities.

Lieut.-Colonel Sir Henry Gidney: Arising out of that reply, will the Honourable Member please inform this House whether the Railway Board have agreed in principle to see that all communities have an adequate share in appointments on all railways, State and Company-managed?

Sir Alan Parsons: I would not like to express the policy of the Government in exactly those words. But the Honourable Member is already aware of the policy of the Government in that matter,—that is to say, that steps should be taken to correct the excessive preponderance of any one community in the railway services.

Lieut.-Colonel Sir Henry Gidney: Is the Honourable Member aware that there are records in the office of the South Indian Railway which go to prove without doubt that almost 90 per cent. of the responsible subordinate appointments, *e.g.*, Superintendents, Head Clerks, etc., in all the offices of that railway are occupied by Brahmins?

Sir Alan Parsons: I am not aware of that fact, and I am somewhat surprised that the Honourable Member should be aware of it.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member kindly refer to the Board of Directors in London, or the Agent of that Railway to corroborate my statement, which is a fact?

Sir Alan Parsons: I am not prepared to make any reference to the Agent, South Indian Railway, on this subject.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member please carry out his duties in that matter?

Mr. President: Order, order.

Mr. B. Das: Is not the Honourable Member making a serious charge against the Brahmin supremacy in Madras? (Laughter.)

PAY OF THE LITIGATION OFFICER, NORTH WESTERN RAILWAY.

215. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Jagan Nath Aggarwal):
(a) With reference to my question No. 360 of 16th September, 1931, and the reply thereto given by the Railway Board, will Government kindly inform the House if it is a fact that the Litigation Officer of the North Western Railway who does not possess legal qualifications is drawing Rs. 800 per mensem?

(b) Is it also a fact that the four Court Inspectors who are trained in law and work under him only draw Rs. 160 to Rs. 200 per mensem?

(c) Will Government kindly inform the House of the training and qualifications possessed by the Litigation Officer which enable him to supervise the work of the four Court Inspectors?

(d) Will Government kindly inform the House of the extra duties performed by the Litigation Officer as a Commercial Officer and the amount of time he spends on such duties?

(e) Will Government kindly inform the House if they have considered whether such duties cannot be performed by persons possessing legal qualifications?

Sir Alan Parsons: (a) The present Litigation Officer has been drawing Rs. 750 per mensem from the 10th August, 1927, and gets personal special pay of Rs. 50 per mensem.

(b) The four Court Inspectors are on an incremental scale of Rs. 200—10—270.

(c) The holder of the post has had long experience in railway commercial work and in arranging for the conduct and disposal of litigation work connected with claims against the Railway.

(d) The commercial work performed by the Litigation Officer consists of disposal of cases of claims arising out of accidents both in connection with personal injuries to the travelling public and damage or loss to goods and parcels carried over the railway. The work in this respect takes up a very large part of his time.

(e) The question has been considered and it is not proposed to disturb the existing arrangements which have proved satisfactory.

APPOINTMENT OF CERTAIN OFFICERS IN THE RAILWAY SERVICE.

216. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Jagan Nath Aggarwal):
(a) With reference to my question No. 364 (regarding appointment of Railway officers "outside their own line of qualifications") and the reply given thereto on the 16th September, 1931, will Government kindly inform the House if the practice of leaving the higher offices referred to in the question open to all branches of the railway services is not opposed to the principle underlying the divisional scheme?

(b) Are Government aware that such offices in other Departments of the Government of India are reserved for the members of the Finance Department and are not open to persons possessing only technical qualifications?

Sir Alan Parsons: (a) and (b). The answer is in the negative.

PROMOTION OF MR. S. R. WOODMORE, OFFICIATING CHIEF DRAFTSMAN, NORTH WESTERN RAILWAY.

217. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Jagan Nath Aggarwal): With reference to my question No. 361 (regarding officiating promotion of Mr. Woodmore at the Moghulpura Railway Workshops) and its reply thereto dated the 16th September, 1931 (communicated to me by the Railway Board), will Government kindly state:

- (a) if it is a fact that Mr. S. R. Woodmore, Officiating Chief Draftsman, North Western Railway, was a B Class apprentice in the Maclagan Engineering College, Mug' alpura, and not even an A Class apprentice;
- (b) if it is also a fact that the only training this person possessed was a course of drawing in Production Office for a period of five months; and
- (c) if it is also a fact that a large number of A Class Apprentices of the Maclagan Engineering College were available in the office for such a job and also persons holding the diploma of Associate Member of Technical Engineers?

Sir Alan Parsons: Information has been called for from the Agent, North Western Railway, and I will communicate with the Honourable Member on its receipt.

HINDUS AND MUHAMMADANS EMPLOYED AS DRIVERS, ETC., ON THE NORTH WESTERN RAILWAY.

218. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Jagan Nath Aggarwal): Will Government please place on the table a statement showing the number of Hindus and Muhammadans serving as Drivers, Shunters, Firemen in Loco. Sheds in each Division of the North Western Railway and Fitters and Mistries in Loco. and Carriage Shops on the North Western Railway?

Sir Alan Parsons: Government regret that they are not prepared to supply figures of communal representation regarding individual offices or classes of establishments.

OFFICERS' AND CLERKS' GRADES ON THE NORTH WESTERN RAILWAY.

219. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Jagan Nath Aggarwal): (a) Arising out of my starred question No. 365, dated the 16th September, 1931 (regarding officers' and clerks' grades on the North Western Railway), and the reply thereto, are Government aware that owing to the huge

retrenchment in the North Western Railway and the block in promotions, considerable dissatisfaction is felt by the employees on account of their being placed in no less than seven grades?

(b) Do Government propose to consider the desirability of amalgamating some of the grades as is the case in other Commercial Departments like the Posts and Telegraphs?

Sir Alan Parsons: (a) and (b). The answer is in the negative.

PROMOTIONS IN LEAVE VACANCIES ON THE NORTH WESTERN RAILWAY.

220. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Jagan Nath Aggarwal):

(a) With reference to the answer to starred question No. 777, dated the 23rd September, 1931, will Government kindly state the individual cases where surplus staff were provided in each section in the case of the North Western Railway Headquarters employees who went on privilege and medical leave?

(b) Are Government aware that previously in the Headquarters Office North Western Railway ladder promotions were given in case of privilege and medical leave and that such practice prevails even now in divisional offices and among offices of the North Western Railway? Do Government propose to consider the desirability of re-introducing the system in the Headquarters office as well?

Sir Alan Parsons: (a) Government regret that they are not prepared to supplement with particulars of individual cases the information already given to the Honourable Member.

(b) It is within the competence of the Railway Administration to make such arrangements in this matter as it may consider most suitable for particular offices, and Government do not propose to intervene. A copy of the Honourable Member's question and of this reply will however be sent to the Agent, North Western Railway.

REORGANISATION OF THE OFFICE OF THE CHIEF PERSONNEL OFFICER, NORTH WESTERN RAILWAY.

221. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Jagan Nath Aggarwal):

(a) In view of my question No. 358 (regarding appointment of Chief Personnel Officer, North Western Railway) and the reply thereto given on the 16th September, 1931, will Government kindly inform the House whether the organisation of the office and staff of the Chief Personnel Officer, North Western Railway, has been since reviewed and, if so, with what result?

(b) Are Government aware that owing to the fall in traffic and retrenchment of staff, the complexity of establishment and labour problems has considerably diminished on the North Western Railway as in other places in the country and that a reorganisation with a view to economy is urgently called for?

Sir Alan Parsons: (a) The matter is under review at present.

(b) On the contrary new problems and fresh complexities have resulted owing to the necessity of making retrenchments of staff on a large scale.

RETRENCHMENT IN THE OFFICE OF THE CHIEF ACCOUNTS OFFICER, NORTH WESTERN RAILWAY.

222. *Mr. Gaya Prasad Singh (on behalf of Mr. Jagan Nath Aggarwal):
(a) Will Government please lay on the table a comparative statement showing:

- (i) total number of subordinate staff employed on 1st January, 1931, under the Chief Accounts Officer, North Western Railway, Lahore, on the one side and the following offices on the other:
 - (1) Agent, North Western Railway Lahore's Office including Divisional Superintendent's offices proper, but excluding the line or workshop staff,
 - (2) Chief Accounts Officer's Office, Great Indian Peninsula Railway, and
 - (3) Chief Accounts Officer's Office, East Indian Railway,
- (ii) the number of men brought under retrenchment from 1st January, 1931, to date in each of these offices;
- (iii) further proposed retrenchment in each of these offices;
- (iv) number of subordinate staff now employed in those offices; and
- (v) percentage of retrenched staff, to the total strength employed before 1st January, 1931, in each of these offices?

(b) If the percentage of retrenched staff in the Chief Accounts Officer North Western Railway Lahore's office is greater than that in the other offices, will Government please state reasons for this discrimination?

(c) Are Government aware that after this retrenchment in the Chief Accounts Officer's office, North Western Railway, Lahore, the existing staff has been badly pressed with the extra rush of work, and the staff has to sit late hours?

Sir Alan Parsons: (a) and (b). On the 1st January, 1931, there were 1,416 subordinates under the Chief Accounts Officer of the North Western Railway; subsequently 33 men were transferred from the Locomotive Department to the Accounts Department with cost accounting work; 143 men have been discharged, and there are now 1,306 subordinates in the North Western Railway Accounts Office. The percentage of the staff discharged to the total strength employed before the 1st of January, 1931, is just over 10 per cent. I must explain that reduction of staff as a measure of retrenchment must be determined solely by the requirements of each individual office. It would be quite impossible to reduce all offices in the same proportion; so that a comparison with the figures for the other offices mentioned by the Honourable Member (which are not available) could serve no useful purpose. Actually, according to present intentions, it is expected that a further reduction can be effected of 83 men in the North Western Railway Accounts Office, 169 men in the Accounts Office of the East Indian Railway and 6 men in the Accounts office of the Great Indian Peninsula Railway.

(c) I am informed that this is not so.

RETRENCHMENT IN THE OFFICE OF THE CHIEF ACCOUNTS OFFICER, NORTH WESTERN RAILWAY.

223. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Jagan Nath Aggarwal): Is it a fact that the retrenchment in the office of the North Western Railway Chief Accounts Officer's office is being carried out on a very arbitrary basis, and the sectional officers are not consulted as to the suitability or otherwise of the number of staff to be retrenched from their branches, but the higher authorities only give a notice to the sectional officers, that such and such will be their share of retrenchment?

Sir Alan Parsons: The answer is in the negative.

UNSTARRED QUESTIONS AND ANSWERS.

BENGALIS APPOINTED ON THE STAFF OF THE ROUND TABLE CONFERENCE COMMITTEES.

33. **Mr. S. C. Mitra:** (a) Will Government be pleased to state the number of Bengalis taken in the recent recruitment that took place for the provision of new hands in the following committees of the Indian Round Table Conference:

- (i) Federal States Committee,
- (ii) Federal Franchise Committee, and
- (iii) Federal Finance Committee?

(b) Will Government be pleased to state the names of the Superintendents and Assistant Secretaries of the above-mentioned committees?

The Honourable Sir George Rainy: I lay on the table a statement containing the information asked for by the Honourable Member.

Statement.

Franchise Committee :

- (a) Two.
- (b) Superintendent—Mr. Bazlul Karim.
Assistant Secretaries—1. Mr. S. P. Thompson, I.C.S. 2. Mr. F. H. T. Ward.

Indian States Enquiry Committee :

- (a) Nil.
- (b) Superintendents—1. Mr. T. A. Coates. 2. Mr. W. J. Chaplin.
There is no Assistant Secretary.

Federal Finance Committee :

- (a) Nil.
- (b) Superintendent—Kunwar Sardar Singh.
There is no Assistant Secretary.

EDUCATION AND TRAINING OF CERTAIN EMPLOYEES IN THE EAST INDIAN RAILWAY WORKSHOP AT LILLOOAH.

34. **Mr. S. C. Mitra:** Will Government please lay on the table a statement of the number of Europeans, Anglo-Indians, and Indians appointed as Foremen, Assistant Foremen, Mechanics (Chargemen), and Draughtsmen in the East Indian Railway Workshop, Lillooah, with their names, general and technical education and particulars of their training, from 1929 to 1931?

Sir Alan Parsons: The available information is given in the East Indian Railway Classified List of Subordinate Staff, a copy of which is in the Library.

COMMUNITIES OF CHARGEMEN APPOINTED IN THE EAST INDIAN RAILWAY WORKSHOP AT LUCKNOW.

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

- (a) the number of vacancies which occurred in the grade of Charge-men in the East Indian Railway Workshop (Carriage and Wagon Department), Lucknow, from 1928 to 1931;
- (b) the number of vacancies filled up by the *ex*-apprentices of Lillooah Workshop and by outsiders; and
- (c) the number of Europeans, Anglo-Indians and Indians taken in as such?

Sir Alan Parsons: I have called for information from the Agent, East Indian Railway, and will communicate with the Honourable Member on its receipt.

ALLEGED RACIAL DISCRIMINATION IN CERTAIN APPOINTMENTS AT JAMALPUR.

36. **Mr. S. C. Mitra:** With reference to the answer to Mr. Amar Nath Dutt's starred question No. 1313.(a) of 16th November, 1931, will Government please state the reason why Messrs. Smith and Sim were selected for heat treatment training at Jamalpore and no Indian was given that chance?

Sir Alan Parsons: Messrs. Smith and Sim were first selected for this training as the most suitable persons available.

STATEMENT LAID ON THE TABLE.

ACTION TAKEN ON RESOLUTIONS ADOPTED BY THE LEGISLATIVE ASSEMBLY.

The Honourable Sir George Rainy: Sir, I lay on the table the information promised in reply to starred question No. 105 asked by
12 Noon. **Mr. Rahimtoola M. Chinoy** on the 3rd February, 1932, regarding the action taken on each of the Resolutions adopted by the Legislative Assembly during 1931.

Statement showing Resolutions adopted by the Legislative Assembly during 1931 and action taken by Government thereon.

Serial No.	Date on which moved.	By whom.	Subject of Resolution.	Department concerned.	Action taken by Government.
1	28th January, 1931	The Hon'ble Sir George Rainy.	Import duties on galvanised iron and steel pipes and sheets.	Commerce	Action has been taken as recommended in the Resolution.
2	29th January, 1931	Mr. K. C. Roy	The Round Table Conference	Home	In accordance with the promise given by the Honourable the Leader of the House a Government motion to the effect that Parliamentary papers connected with the Round Table Conference be taken into consideration was debated in the Legislative Assembly on the 2nd and 7th March, 1931.
3	12th February, 1931	Mr. Bhuput Sing	Import duty on Vegetable Ghee.	Commerce	No action has been taken on this Resolution.
4	1st April, 1931	The Hon'ble Sir George Rainy.	Additional payment for rails to the Tata Iron and Steel Co.	Commerce	Action has been taken as recommended in the Resolution.
5	1st April, 1931	The Hon'ble Sir George Schuster.	Distribution of the proceeds of the duty on foreign salt.	Finance	The principle mentioned in the first two parts of the Resolution regarding the apportionment of the proceeds from the additional import duty on foreign salt has been accepted by the Provincial Governments and the distribution of the 7/8ths of the duty collected up to the end of September, 1931, has already been made on a

tentative basis pending the acceptance by these Governments of the details on which the distribution has been made. The attention of the Provincial Governments concerned has also been drawn to the matter as suggested in third part of the Resolution.

A Committee (Retrenchment Advisory Committee) was appointed in accordance with the Resolution.

The Resolution was accepted by the Governor General in Council and necessary intimation given to the International Labour Office and the League of Nations.

A copy of the Resolution and of the Debate was forwarded to the India Office on the 24th September, 1931, for the information of the Secretary of State and His Majesty's Government.

The Government of India have taken action in certain cases where local Governments have applied for diversion of their shares in the road development account to maintenance, and are prepared to take similar action in other cases where such action proves to be justified.

6	1st April, 1931	The Hon'ble Sir George Schuster.	Appointment of an Advisory Committee on Retrenchment.	Finance	and	Finance	A Committee (Retrenchment Advisory Committee) was appointed in accordance with the Resolution.
7	1st April, 1931 and 3rd October, 1931.	Mr. J. A. Shillidy	Draft Convention regulating hours of work in offices, hotels, etc.	Industries and Labour.	and	Industries and Labour.	The Resolution was accepted by the Governor General in Council and necessary intimation given to the International Labour Office and the League of Nations.
8	17th September, 1931.	Mr. Amar Nath Dutt	Position of High Courts in the future constitution of India.	Home	Home	A copy of the Resolution and of the Debate was forwarded to the India Office on the 24th September, 1931, for the information of the Secretary of State and His Majesty's Government.
9	3rd October, 1931	Mr. J. A. Shillidy	Expenditure on roads	Industries and Labour.	and	Industries and Labour.	The Government of India have taken action in certain cases where local Governments have applied for diversion of their shares in the road development account to maintenance, and are prepared to take similar action in other cases where such action proves to be justified.

Statement showing Resolutions adopted by the Legislative Assembly during 1931 and action taken by Government thereon—contd.

Serial No.	Date on which moved.	By whom.	Subject of Resolution.	Department concerned.	Action taken by Government.
10	3rd October, 1931	The Hon'ble Sir George Rainy.	Purchase of the Bengal and North Western and Rohilkund and Kumaon Railways.	Railway	Negotiations are proceeding with the companies concerned.
11	3rd October, 1931	The Hon'ble Sir James Crerar.	Draft Convention on forced or compulsory labour.	Home	The Resolution as moved on behalf of Government was adopted in an amended form. Local Governments and Administrations have been asked to give practical effect to the Resolution adopted by the House and to secure the appropriate amendment of such local enactments as may be found to be necessary and to issue such executive orders as may be deemed advisable to secure the objects in view. The Government of India are themselves taking such action as may be necessary to amend Acts of the Indian Legislature which permit the employment of forced or compulsory labour for private or public purposes. Copies of the proceedings and the Resolution and the letters sent to local Governments, etc., have also been forwarded to the Secretary of State for information and communication to the Director, International Labour Office.

RESOLUTION RE ESTABLISHMENT OF A SUPREME COURT IN INDIA.

Mr. B. R. Puri: (West Punjab: Non-Muhammadan): Sir, the Resolution which stands in my name and which I have the privilege to move runs as follows:

"This Assembly recommends to the Governor General in Council to take early steps to secure that a Supreme Court is established in India with power—

- (a) to interpret and uphold the constitution;
- (b) to act as a court of final criminal appeal against all sentences of death;
- (c) to act as a revising court in specified serious cases;
- (d) to hear civil appeals now heard by His Majesty's Privy Council; and
- (e) generally to carry out the work at present entrusted to His Majesty's Privy Council;

provided that such court shall not affect His Majesty's prerogative, safeguarded in the constitutions of Canada, Australia, and South Africa."

Sir, I feel that I owe an explanation to a certain section of my Honourable colleagues who regard this Resolution at the present moment as an inopportune one. The reason which they assign for this view is that this subject is already pending before the Round Table Conference, and that, being a matter which is *sub judice*, it would not be opportune for us to discuss on the floor of this House the same subject when the final decision of the question rests with the Round Table Conference. Sir, the fact that this matter is pending before the Round Table Conference is the very reason for which I feel justified in moving this Resolution before this House. The Round Table Conference is not in our confidence and we are not in the confidence of the Round Table Conference either. We have got no voice there, and although we have got some esteemed friends who are taking part in the deliberations there, none the less we cannot claim that they are our representatives in that body. Therefore nobody need grudge our right and privilege in expressing our own views on certain subjects in the hope—it may be a forlorn hope—that those views might possibly reach the proper quarters. Therefore, for the very reason which is now being raised for not discussing the subject, I feel perfectly justified in placing my own views before this House in the hope that the House will accept the same.

Now, so far as the creation of a Supreme Court is concerned, the principle of it has already been conceded by the Round Table Conference. So far as the constitutional aspect of the Federal Court is concerned, that Court would be no doubt a part of the constitution itself. It has got to be, because no constitution could be properly worked unless and until there is a body of competent judges constituting the Federal Court, to uphold and safeguard that constitution. With regard to the creation of a Supreme Court, this matter also came up before the Round Table Conference, and in the proceedings of the second Round Table Conference the subject is exhaustively dealt with. We are not so much concerned in the present Resolution with the creation of a Federal Court, because, as I have already submitted, it has already been conceded by the Round Table Conference, and it is going to be part and parcel of the constitution itself. When the new reforms come in, the Federal Court must come in also. And all constitutional matters and questions will have to be adjudicated upon by that body. The question which immediately concerns us at the present

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moment is one with regard to the creation of a Supreme Court. Now, Sir, the functions which this Supreme Court, according to the present Resolution, is intended to discharge and carry out are first of all to act as a court of final criminal appeal against all sentences of death, to act as a revising court in specified serious cases, and to hear civil appeals now heard by His Majesty's Privy Council. With regard to the civil appeals, it was conceded during the discussions in the Round Table Conference that, whether you call it by the name of "Federal Court" or "Supreme Court", the creation of some sort of court was absolutely essential in order that it should act as a final court of appeal, be it civil or criminal, but the need for the creation of a court of that description was conceded and that, I submit, was in accordance with the constitutions which have been granted to the other big Dominions of the Crown, namely, South Africa, Australia and Canada. In all those three Dominions we find that Supreme Courts have been established and they are the final courts of appeal, both on the civil as well as on the criminal side. Therefore so far as the Resolution goes, we are not asking anything more or anything beyond what has already been conceded in the case of the other Dominions, and which as I have already submitted has been recognised as an absolutely essential part of the constitution, even by the present Round Table Conference, in their discussion regarding the constitution of such a court. The only drawback and the only point which was brought before the Round Table Conference regarding which there might be a difference of opinion is with regard to the view expressed during the said discussion that that would promote a multiplicity of appeals. If the appeals lay to the Supreme Court locally instead of to the Privy Council, then according to the views of a certain section of the Round Table Conference there would be a multiplicity of appeals, which would not conduce to a happy state of affairs. In dealing with this question they say this, and I invite the attention of this Honourable House to their view:

"A strong opinion was expressed in the Committee that the time"

—I am now referring to paragraph 63, page 19 of the report of the Second Session of the Indian Round Table Conference—

"That the time had come for the creation of a Supreme Court for British India to which an appeal should lie from all Provincial High Courts in substitution for a direct appeal to the Privy Council. Appeals from the Court would lie to the Privy Council only with the leave of the Court or by special leave. The creation of such a Court is in the natural course of evolution, and the Committee adopt the suggestion in principle."

—so that you will be pleased to see that the principle is conceded:

"A difference of opinion, however, manifested itself on the method whereby such a Court should be brought into existence. There was a strong body of opinion among the British Indian Delegates to the effect that the Federal Court should be invested with this further jurisdiction, the proposal being that the Court should sit in two Divisions—one dealing with Federal matters and the other with appeals on all other matters from the Provincial High Courts. Other Members of the Committee and, generally speaking, the States representatives, dissented from this view and were of the opinion that there should be a separate Supreme Court for British India on the ground that the Federal Court would be an all-India Court, while the Supreme Court's jurisdiction would be confined to British India; the mass of work with which it would have to cope would obscure its true functions as a Federal Court, to that extent would detract from its position and dignity as a Federal organ. It is no doubt" (and it is this sentence which I am emphasising and particularly one which I want the Honourable House to note) "It is no doubt the case that many more

appeals would be taken to a Supreme Court situate in India than are at present taken to the Privy Council, and the Committee appreciate the force of this objection. But there would be no difficulty in reducing the appeals to a reasonable number by imposing more stringent restrictions upon the right of appeal."

Now, it is this particular passage which I propose particularly to deal with, and I submit that any attempt on the part of the Round Table Conference to curtail the right of appeal—which right has now been enjoyed by the subject for well-nigh a century—would be a retrograde measure; and I submit that it would be no sort of reform at all if on the eve of the constitutional reforms or as part and parcel of them we were to be denied a very valuable privilege of appeal which the people of this country have enjoyed, as I have submitted, for well-nigh one hundred years already. I submit that, unless there are very strong and cogent reasons for taking the opposite view, if we cannot be given anything more, at any rate we should not be deprived of what we already possess and enjoy. Now what are the reasons why this privilege is proposed to be taken away or encroached upon by the present proposals? The reason is that, so far there have been peculiar obstacles in the way of the people. People who feel dissatisfied with the decision of a High Court have now got the right and privilege of taking that matter in appeal to the Privy Council. They say that in present conditions there is a very small number of people who actually prefer an appeal to the Privy Council, and the reasons for that fact are quite obvious. The long distance, the enormous expense, the long delay connected with an appeal preferred to the Privy Council are no doubt deterring factors. Many people, through sheer lack of means and the amount of money it is necessary to spend in order to prefer an appeal, are now debarred from that redress which otherwise they would be perfectly willing to seek. Again, there have been cases on record where for dozens and dozens of years proceedings have been pending and no decision has been arrived at on appeals already filed before the Privy Council, so that apart from the question of expense, there is this long delay which also acts as an impediment; and over and above that, there is the peculiar disadvantage that people who prefer an appeal, not themselves being on the spot, cannot watch the conduct of their case and are not in a position to give proper and adequate instructions to their counsel. Therefore, Sir, the people, in the present conditions, are perforce debarred from seeking the redress and the remedy which in name and theory they no doubt possess; and now the argument put forward is that because hitherto on account of such obstacles you were not able to take full advantage of that privilege of appealing to the highest tribunal in the Empire, now that we are considering the constitution locally of a Supreme Court, you should be in the same disadvantageous position, and a facility which has been conceded in theory for such a long time should for all practical purposes be rendered as innocuous and as ineffective as the previous state of things when appeals were preferred to the Privy Council.

Sir, I do not think I should be overstating my case or placing before you an unfair parallel if I were to illustrate this by saying that it really comes to this. If a hospital were to be built on the top of a hill with a particularly narrow and ill-defined road and the people were invited to resort to that hospital, it would work like this that people with bad dislocations could get on to the top of that hill and get treated, no doubt very well, I am willing to admit that, because we have got very nice surgeons there, but who is going, I ask, to get to the top of the hill? Now when you are going to build and erect a base hospital, you turn round and say,

[Mr. B. R. Puri.]

“Now, hereafter we are not going to treat those people unless they have got double fractures and not mere ordinary cases of dislocations because you people were perfectly satisfied before this to die and to resign yourself to your fate”, so that in spite of the fact that there is a remedy provided on the spot, you are now trying to create impediments so that people may not be able to avail themselves of this facility which is now sought to be provided. I submit, Sir, that this would be a very backward sort of legislation and that the people should protest, and I am sure nobody is going to part with a vested right which has been enjoyed for a very very long time.

That is so far as regards the remedy of civil appeals is concerned. Now dealing with the criminal side of it, I submit that the position requires much greater thought and things should be remedied without the least possible delay. Now so far as the right of appeal on the civil side is concerned, there is a two-fold appeal provided. In cases of small value there is, first of all, the appeal to the District Judge and thereafter a second appeal to the High Court. In cases of a certain value and beyond, there is a first appeal to the High Court in the first instance and thereafter, on certain conditions, a second appeal is provided to the Privy Council. For all practical purposes, therefore, we have two-fold appeals provided so far as civil cases are concerned. But when we come to the criminal cases, we find that there is only one appeal given to a convicted person. In certain cases there is an appeal provided only to the Sessions Court; in certain other cases, where the sentences are longer, the appeals are provided which are preferred in the High Court. But once an appeal is preferred there is no further remedy provided after that. From a decision of appeal before the Sessions Court there is a remedy on revision provided, but so far as the appeal in the High Court is concerned, that is absolutely the final pronouncement on the subject. There is no further revision or appeal or any other remedy open to a convicted person. Now, Sir, I feel that that is the most unfair discrimination. If a double appeal is provided on the civil side, I do not absolutely see any reason why a corresponding facility should not be granted to a condemned or accused person. If anything, I should think that a greater facility, a greater opportunity, should be afforded to an accused person because in his case it is a matter of life and death in certain cases. Where people's liberties and life are involved, I do not think it requires any elaborate debate to convince this House that more facilities should in all fairness be conceded than are afforded to litigants who are sometimes promoting and fostering litigation merely for the fun of it or merely as a hobby or pastime and sometimes even as a passion. I therefore submit that, without any further argument, this Honourable House will be pleased to concede forthwith that a double appeal should in all cases be provided so far as the criminal cases are concerned. As things stand at present, and as I have already pointed out, although the Privy Council is always open to hear appeals in a certain class of civil cases, they have declared times without number that they are not a court of appeal for the purposes of criminal cases. In fact, latterly they have condemned the attempt on the part of counsel as well as Parliament to prefer criminal appeals to them. Therefore, so far as the Privy Council is concerned, that door is absolutely closed. The man whose sentence of death has been confirmed by the High Court has got, as I have submitted, no further remedy left to him in this country.

Now, Sir, it is necessary that we should go a little bit more deeply into the subject in order to see whether, after the confirmation of a death sentence by the High Court, it can be legitimately argued that the man should be given any more remedy to have his case reopened and discussed before some other higher authority. I submit that, apart from any other consideration and merely to be consistent, I fail to see why the value of people's lives and liberties should be less than the value which you place upon the properties of the people. But, quite apart from that, I submit that if we consider the various phases and various stages through which a person passes when he is first put on his trial, say for murder, I think the least we should concede to him is that he should be given the right of second appeal. Now, I ask you to bear with me for a few minutes and I will try to trace before you the various stages through which a person has to pass. To begin with, there is the police investigation. Now, Sir, so far as that particular stage of the proceedings is concerned, I submit that we are in a very unhappy position so far as this country is concerned. And as I discuss and consider each stage, I will, with your permission, Sir, endeavour to compare it with the conditions which prevail elsewhere, more particularly in England. Now, if we compare the nature and the character of the police investigation which goes on in this country with the corresponding police investigation which prevails in England, I do not think it will require any serious argument to convince the House that there is no comparison between the two. Here in this country, so far as the police are concerned,—I have no desire to malign or to abuse them unnecessarily—I am constrained to say that they are not after all an ideal police in spite of the fact that at the present moment there seems to be a disposition on the part of the officials to extol them to the skies. None the less, I am constrained to say that, so far as the conditions that prevail in a country like England, there they have a far more conscientious body of public servants, far more honest and far more competent. Although I cannot complain that the same conditions do not exist in this country and that the police are not quite so strong, upright and conscientious, yet it is due to the fact that the country is a slave country and the people are starving. So, in order to earn their pittance they have possibly to resort to certain things in order to keep themselves going. All the same, the fact cannot be denied that, so far as the police are concerned, they are, if I may be permitted to say so, a legislatively discredited body. I say legislatively discredited in the sense

The Honourable Sir James Crerar (Home Member): I regret very much to interrupt the Honourable Member but I cannot allow to pass without a denial on my own part the suggestion made by the Honourable Member that the police force in this country is a discredited body. I must protest very strongly against that imputation.

Mr. B. R. Puri: The position that I was trying to place before the House is not an argument of which I am the author. I will have the privilege of quoting chapter and verse to which my learned and esteemed friend the Honourable the Home Member could himself refer. I now propose to draw his attention to certain legislative provisions which the law has laid down from which he can draw his own inference.

Mr. President: The Honourable Member has two minutes more.

Mr. B. R. Puri: May I know what is the time I am entitled to?

Mr. President: The Honourable Member is entitled to 30 minutes.

Mr. B. B. Puri: Well, Sir, in order to justify the observation which I was about to make, I would draw the attention of the Honourable the Home Member to such provisions of the Evidence Act as go by the names of Sections 25 and 26 and to such provisions of the Criminal Procedure Code as section 103 of the same Code. Now, unfortunately, I have got no time, but if I had time I could have dilated upon this question, and I would have placed before him the various grounds and the various reasons in support of the proposition which I venture to lay down before the House. None the less, even the Honourable the Home Member cannot claim that we have got an ideal police in this country. So far as the police investigation goes, we are not in a very happy position. Then comes the next stage when the case of an accused who is being tried for murder is before the committing Magistrate. During that stage, no doubt the formality is being observed, certain evidence is being recorded and the witnesses are being examined and cross-examined. But what is after all the position of a committing Magistrate? We all know fully well that he is more or less regarded as a post office. He is there to record mechanically the evidence without being able to express his own views or without giving any finding. It is not for him to decide that question. It is ultimately within the jurisdiction of the Sessions Court, and therefore the committing Magistrate is merely a collector of evidence which he passes on to the Sessions Court for any finding that the Sessions Court may like to give. Therefore I submit the stage of the committing Magistrate is not the stage in which the real question of guilt or innocence of the man has been considered and determined one way or the other. This is merely a prolongation of the misery and an unnecessary burden and expense upon the wretched unfortunate man. Therefore the first stage of police investigation and the committal Magistrate's proceedings are of no use to the man concerned. Then we come to the actual Sessions trial. Here the Sessions Judge is assisted by a body of men called assessors, an institution which I consider is a disgrace upon criminal administration of the country. Here is a body of uncouth uneducated men, pliable and official-ridden, who are always there to record in most cases, and I speak from experience

Mr. President: The Honourable Member's time is up and I will allow him only two or three minutes more. I cannot allow him indefinitely to go on as long as he likes.

Mr. B. B. Puri: This body of men is supposed to be part and parcel of the Court itself. These classes of men are allowed to participate in a serious trial where the question of life and death is involved. If these men bring any verdict of guilt, that opinion is very readily availed of. If on the other hand they bring in a verdict of not guilty, they are contemptuously ignored. That is their lot. They do not understand law; they are most of the time dosing as far as I have been able to see them. They are not paying the least attention to the case, and the actual question that is being agitated before them, and this is the actual atmosphere in an average Sessions trial. I do not say for a moment that Sessions Judges do not discharge their duty nor endeavour to do according to the best of their lights. But what I submit is that in a trial where such a light atmosphere is allowed to prevail, surely you cannot say that this is an ideal administration of justice, especially in

cases in which the question of life and death is involved. The last and the final stage in the proceeding is when the matter comes up before the High Court. I have very great respect for the High Courts, but I would venture to submit that a considerable number of people would certainly have been alive to-day just like you and me if they had not been despatched to the gallows by the decisions of the High Court. These are not my own views in the matter. I would refer for the information of the House to a passage from a speech made by Mr. Eardly Norton on that point. He says :

“With regard to the question as to what powers should be vested in the contemplated Supreme Court, I do not propose to speak. These will be discussed later on, if and when this matter returns to us at a future period. But, with regard to the question of the criminal side of the question, I have a word or two to say. I do hope, that if the Supreme Court crystallises, its Judges will be invested—I do not say the right of appeal from the High Courts,—but I do trust that they will be invested with larger powers than at present it is apparently suggested that they should possess. There is a feeling—and I think it is a feeling which is well based—there is a feeling that it is because High Courts are in criminal matters placed in a sphere of almost complete irresponsibility, that such not infrequent miscarriages of justice occur.”

Then he gives two instances. I am not going to take the House through all the details. At the end he says :

“Had it not been that the appellant had friends who supplied him with necessary means, he would have been convicted and convicted unjustly. He was acquitted in the Privy Council. A few years later, a man was charged with murder. . . .”

With regard to this case, he says :

“If the accused had not been an extremely wealthy man, the Government of Madras would have hanged him. To cure all this, I venture to think, that as my learned and Honourable friend suggests, if we had a Supreme Court of appeal sitting here on the spot, with counsel trained in the law as now, there would be no justification for the allegation that the vindication of innocence depends sometimes upon the length of the purse and not of the merits of a prisoner.”

Mr. President: The Resolution proposed runs :

“This Assembly recommends to the Governor General in Council to take early steps to secure that a Supreme Court is established in India with power—

- (a) to interpret and uphold the constitution;
- (b) to act as a court of final criminal appeal against all sentences of death;
- (c) to act as a revising court in specified serious cases;
- (d) to hear civil appeals now heard by His Majesty's Privy Council; and
- (e) generally to carry out the work at present entrusted to His Majesty's Privy Council;

provided that such court shall not affect His Majesty's prerogative safeguarded in the constitutions of Canada, Australia and South Africa.”

Mr. B. Sitaramaraju (Ganjam *cum* Vizagapatam, Non-Muhanimadan Rural): I gave notice of a similar Resolution, but that was done before I had a copy of the decisions arrived at by the Round Table Conference. When I saw the decisions arrived at by the Federal Structure Committee of the Round Table Conference, I thought that I should not press that Resolution and that for reasons which are not identical with those of my Honourable friend who has just now resumed his seat. I am afraid my Honourable friend Mr. Puri has misunderstood the conclusions arrived at by the Round Table Conference on this point.

Mr. B. Das (Orissa Division: Non-Muhammadan): Are they not mere recommendations?

Mr. B. Sitaramaraju: There is no doubt that Mr. Das and others of his way of thinking have not taken kindly to the decisions of the Round Table Conference. I, as a Member of this Assembly, would certainly consider that the Assembly is not treated properly when it was not given an opportunity to elect representatives to that Conference, but short of that I should say that when the Round Table Conference was constituted, the various groups of this Assembly were duly represented by their Leaders.

(At this stage Mr. President vacated the Chair, which was taken by Mr. Deputy President.)

It cannot be said that Government have completely ignored this Assembly because the Muslim Party leaders and the Independent and Nationalist Party leaders were represented in the Round Table Conference. After all it was not only this House, but the various other interests in the country had to be catered for, and I think, short of giving a representative character to that body, Government have done fairly well, and so far as I am concerned, I am not of the same view as the one expressed by Mr. Puri on this occasion. So far as the Supreme Court is concerned, the Federal Structure Committee has considered this question, and in considering that, they had to consider the larger question of a Federal Court. If we have to have a Federal constitution, the constitution of a Federal Court is essential, and the question which was then considered was whether, when such a Federal Court was constituted, the desire of British India to have a Supreme Court should not be taken into consideration; and the Round Table Conference came to the conclusion that a Supreme Court also was essential. Having come to that conclusion, they thought that the Federal Court and the Supreme Court, instead of being two separate bodies pressing financially upon the country's resources, should be grouped into one, each sitting in a separate division. That was the recommendation of the Federal Structure Committee, and when they said that there was a strong opinion that there should be a Supreme Court constituted in India and that it should be done forthwith, I do not see any reason why we should quarrel with that recommendation.

Mr. B. R. Puri: They do not say that it should be done forthwith, and that is my point.

Mr. B. Sitaramaraju: I am coming to that. You have read paragraph 63, and if you read paragraph 64 you will find that they say the following:

"The only difficulty was for the Federal Structure Committee whether the Constitution Act itself should at once establish a Supreme Court or whether the power should be given to the Federal Legislature to establish it as a separate institution."

That was the point that was considered by the Federal Structure Committee, and the conclusion that they arrived at was that a *via media* had to be struck. They said therefore

Mr. B. Das: Sir, on a point of information. Last year Government allowed us a day to discuss the report of the Round Table Conference and this year we expect there will be a day

Mr. Deputy President: That does not arise on the present discussion.

Mr. B. Das: The question is that when we are discussing here the report of the Federal Structure Committee

Mr. Deputy President: Order, order.

Mr. B. Sitaramaraju: I was saying that that was the question before the Federal Structure Committee, and the recommendation of that Committee was this. They said:

"They recommend therefore that the Constitution Act should prescribe the jurisdiction and the functions of the Supreme Court and that the Federal Legislature should be given power to adopt these provisions of the Constitution Act in future."

That was, as I said before, a *via media* between the two positions whether a Supreme Court should be constituted forthwith or whether it should be left to the future Federal Legislature.

Now, Sir, when we are to have a federal constitution, "to interpret and uphold the constitution", as is mentioned in clause (a) of this Resolution, would be considered purely the function of the Federal Court, and that was conceded by the recommendation of this Committee. Therefore so far as clause (a) is concerned, it is gone; and as regards the four other points, except the question of the constitution of a final court of criminal appeal over which there is some difference of opinion and to which I shall refer later, the Federal Structure Committee has conceded the other three. My Honourable friend would be wrong in supposing that the statement of a mere point that there would be a number of appeals if a court is constituted in India was any strong ground in itself for the Committee to be afraid of constituting it. It was only a mere argument which was made before the Committee and whatever the merits of that position may be, it was after all a mere argument. It was not, and is not, a material issue. As regards the constitution of a Supreme Court that is, as I have already said, conceded except in the case of the constitution of a criminal court of appeal, and these are the findings of that Committee regarding a court of criminal appeal:

"The Committee had no time at their disposal to enter into a close examination of the question whether in principle a court of criminal appeal for the whole of India is desirable or not and they do not feel themselves able to express any opinion on the matter, though they recognise its great importance."

Therefore even as regards the question about the constitution of a court of criminal appeal, the Federal Structure Committee have not come to any definite conclusion. They themselves had no time to consider this question.

Mr. B. E. Puri: Sir, if the Honourable Member will kindly read ten lines lower down, he will find that they did come to a definite finding. They said:

"For the same reasons as they hesitate to recommend the immediate establishment and the constitution of a Supreme Court of Appeal in civil matters from the High Courts of British India, the majority is unable to recommend the immediate establishment of a court of criminal appeal."

Mr. B. Sitaramaraju: Sir, I am very much surprised to find that my Honourable friend has misunderstood me. If my Honourable friend will only refer to an earlier page he will find that there were two views expressed. One was for the constitution of a Supreme

[Mr. B. Sitaramaraju.]

Court immediately and the other was to leave it for the Federal Legislature. The remark which was just now referred to by my Honourable friend deals with the former view, that it should be left to the Federal Legislature, and in that case they are of the opinion that the constitution of a court of criminal appeal should also be left for future consideration. But the Committee, as I have said before, struck a *via media*, and they said that it should form part of the Federal Act itself and the details should be left to the Federal Legislature. That is the recommendation. In these circumstances, Sir, I do not think that it is desirable that he should press the Resolution at this stage.

(At this stage Mr. President resumed the Chair.)

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, I feel that I cannot support this Resolution at this stage. I believe that as a necessary result of the federal constitution which they all say is coming every day, there would be a Supreme Court of final appeal established here for the purpose of deciding constitutional questions. Consequently there is nothing wrong, the skies are not going to fall, if we wait a few months more till the federal constitution is established with a Supreme Court for final decision of constitutional matters. Now, along with these constitutional matters it was suggested in the Round Table Conference that the functions now discharged by the Judicial Committee of His Majesty's Privy Council might also be transferred to that tribunal. The objection that was raised before the Round Table Conference does not appeal to me, because, Sir, if I can lay before the House the experience that I have gained,—not probably in such highly civilised quarters as in British India—I think this bogey of an increase in business would not materialise. It is perfectly true that the absence of these handicaps that my friend Mr. Puri has placed before you would probably increase the business to a very small extent. But at present the work is done under the Judicial Committee Act and even if it had been enlarged by enlarging the provisions of the Civil Procedure Code, I do not think it would make for such an extraordinary increase of business that it will be difficult for the coming Supreme Court to deal with the constitutional as well as the judicial side of it. But, Sir, in view of the fact that the question has got to be threshed out, I do not see any immediate necessity of this Resolution. It is not that these recommendations and these aspects so ably put forward by my friend, Mr. Puri, would not be considered at the proper time, but he wants that the Supreme Court should be established in India, i.e., now before these other things which are now in the melting pot are taken out and beaten into shape. That provision in the Resolution makes it premature. He wants that it should interpret and uphold the constitution, which does not exist. I take it that that is a duty which the Federal Court will be invested with, when the constitution comes to existence. With regard to making it a court of criminal appeal and a court to act as a revising court in certain specified matters, I entirely agree with my late friend and master, Mr. Eardley Norton, that the provisions regarding criminal appeal in death sentences should be considered in a more careful manner than has been done in the past in the few cases which go before the Privy Council, and that unless a very strong case is made out, they should simply veto an appeal, because it would bring in a flood of similar appeals before the Privy Council, which

it would not be a convenience for that tribunal to decide. Much water has flowed under the bridge since then, and I have no doubt values in regard to these things have changed; but after all has been said and done, there is absolutely no doubt that some provision must be made for redressing injustice in case of death sentences where, as in the Pondi case, which Mr. Eardley Norton has cited, the man would have been hanged were it not that the whole judgment of the High Court was cabled to England at a cost of Rs. 19,000 or Rs. 20,000 and their Lordships were supplied with a copy before they were prepared to interfere in that criminal appeal. That condition of things is not at all a satisfactory one, and it does require careful reconsideration. I would therefore suggest to my friend, Mr. Puri, that after having got out the opinions of this House in regard to his Resolution, he should not press it to a division, but wait and see what is going to come from all this talk of a federal constitution, and the Federal Court so far as the judicial administration is concerned, and then bring forward his Resolution if what the Federal Committee decides does not satisfy him.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhamadan Rural): Sir, from what we have heard so far from Honourable Members here, we find that there are philosophers differing on the point that so much has been conceded by the Federal Structure Committee and so much has not been conceded. There may be differences of opinion on these points, but the fact remains and cannot be denied that under the present constitution of the Government and of the courts, criminal justice falls very short of civil justice. My friend, Mr. Puri, in a very lucid speech, has stated that criminal justice is not up to the mark in criminal appeals, and when they are preferred to the Privy Council, they do not have the same consideration which is shown always to the civil side of justice

Mr. B. R. Puri: They are not entertained at all.

Mr. Muhammad Azhar Ali: Quite so, as my friend says they are not entertained at all. Every lawyer who has any experience of the Privy Council cases or the High Court cases knows these facts very well that the criminal side does not receive the same attention. The fact cannot be denied by any Member in this House that criminal appeals in the Privy Council are thrown away without any redress to the litigants or accused.

As regards the fact whether the Supreme Court is or is not a necessity, this fact has been recognised by the Federal Structure Sub-Committee that a Supreme Court is important for British India, and I think the Indian States will not object to British India having the benefits of a Supreme Court. In this House we simply want to express, as my friend, Mr. Puri, says, a desire that a Supreme Court is a necessity for the administration of justice in British India. This desire of ours we want to be carried by the Resolution of this House, and in my opinion it is a very legitimate desire. As regards the points that there are heavy expenses and much time is spent in preferring appeals, it is a fact which cannot be denied; it cannot also be denied that we have no power of appeal in criminal cases. There is only power of revision at present, and all these difficulties will be minimised when Supreme Court is established in British India. If the Indian States do not desire that the Supreme Court should operate within their States, this point can be settled with them when matters are being finally settled. Here our object is, that

[Mr. Muhammad Azhar Ali.]

if the Supreme Court is to be established, then we ought to know the Government point of view, and we want the Honourable the Law Member to state in very definite terms that the object of this Resolution will be considered in the final shaping of the new constitution. That is the only object, and I do not think there is any other object besides that.

Mr. B. Das: Sir, I rise to support the Resolution moved by my friend, Mr. Puri. I did not want to speak, but I find the report of an extraneous committee known as the Federal Structure Committee has been brought on to the floor of this House and quoted *in extenso*. I am surprised that certain Honourable Members of this House have shown such deference to any recommendations that certain gentlemen made in the Round Table (or oval table) Conference—I do not know what it was—I have not seen a picture of it—and that it should be taken for granted that certain decisions were reached in the Round Table Conference or Federal Structure Committee and this House should abrogate its power and should bow to the decisions of those Round Tablewallas. Even my friend, Mr. Sitaramaraju, for whose legal acumen I have the highest respect, quotes from this report of the Federal Structure Committee, where I find there are many Highnesses and many Knights and only a few Misters—Mr. Gandhi, Mr. Rangaswami Iyengar, Mr. Jayakar, Mr. Jinnah, Mr. Gavin-Jones, Mr. Joshi—only very few Misters, but all are “His Highnesses” or “Marquesses” or “Sirs” or “Diwan Bahadurs”, etc. My friend Mr. Raju says that, because there is going to be a Federal constitution, we should postpone the idea of having a Supreme Court for India. And what is this Federal constitution? It brings in the essential principle that there will be represented in it all the States of India. The Government have not taken any opportunity to bring before this House these reports or any other reports that have reached them by Air Mail from London for discussion. Why should we bow to the recommendations of a certain committee or committees with which we never had any agreement, with which we have no agreement? Their recommendations are subject to consideration by this House and also by the British Parliament, but before the Parliament decides, it is the duty of the Government to bring before this House their decisions for discussion and consideration. Mr. Raju says that we bow to their decision, and we will have a Federal Court. What my friend Mr. Puri wants is a Criminal Court of appeal for British Indians. Suppose a Federal Court comes into existence, will the laws that will govern, the trial of criminal cases in British India also apply to people of Indian States? Have not Their Highnesses who participated in the Round Table Conference taken full care to see that there shall be no interference in the internal affairs of Indian States? So why should we postpone consideration of the decision that India needs a Supreme Court where the criminal appeals can be considered in the admirable manner suggested by my friend Mr. Puri. My friend Mr. Raju never went as member of the Round Table Conference or of the Federal Structure Committee, and why he is so very respectful to these bodies and why he is worshipping the recommendations of these committees I do not know. Last year we found, when we had assembled to discuss the recommendations of the first Round Table Conference, there was a lot of verbiage and nothing worth considering, and this House gave its opinion that there was nothing worth

considering in the Report of the Round Table Conference, and this opinion the Honourable the Home Member took the opportunity to forward to the Prime Minister and to the British Parliament. I think Honourable gentlemen who will speak after me will take care not to make any observations on the proceedings of the Federal Structure Committee. Let us consider the merits of the question, whether India needs a Supreme Court, and I would like the Honourable Member in charge to answer the question I have raised, namely, whether the laws that apply in criminal trials to British Indians will also apply to subjects of Indian States; otherwise I repudiate any idea of Indian States coming into the Federation, nor do I wish to associate myself with the Princes who have no sort of civilized administration in their States. With these observations, Sir, I whole-heartedly support the Resolution of my friend Mr. Puri.

Mr. N. R. Gunjal (Bombay Central Division: Non-Muhammadan Rural) made a speech in Hindi, a translation of which will appear as an appendix to these Debates later.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I am in full agreement with my Honourable friend Mr. Puri when he says that this Resolution is not inopportune; indeed I would say that the Resolution has been brought forward in the very fitness of things. The only objection raised is that the Round Table Conference has been considering this question and therefore we should wait. I do not agree with that view, and I think the advantage of passing this Resolution now will be that the Round Table Conference will be influenced by the considered opinion of this House on this question.

With regard to the question whether the Round Table Conference members are the representatives of this country or not, I need not go into it very much, but I must say that the members of that Conference were nominated by the Government, and in that nomination I must emphasise the point that the representatives of all parts of the country were not included. As an illustration take the case of Sind Hindus. I put a question to-day to the Leader of the House at the question time as to why it was that no representative was appointed from the Hindu community of Sind to the Round Table Conference while the question of the separation of Sind was a prominent and vital matter before the Round Table Conference. The reply was,—and I was very much astonished at the reply—that it was the Secretary of State who nominated these members.

Mr. President: How is that relevant to the Resolution before the House?

Mr. Lalchand Navalrai: I only wish to say that it is covered by the point that this Resolution is not inopportune

The Honourable Sir George Rainy (Leader of the House): I should like to point out that I did not make any statement to-day about the appointment of members of the Round Table Conference. The questions that were asked were about certain committees.

Mr. Lalchand Navalrai: What I want to say is that I do not agree that the nomination was made by the Secretary of State without consultation with or without concurrence of the Government of India. Therefore, I maintain that, no matter whether this question is being considered by the Round Table Conference or not, it is right and proper that we should express our opinion on this Resolution. I must also say that I was not a little surprised at what came from my Honourable friend the Raja Bahadur on this motion. The Raja Bahadur seems to think that this question also should be treated on the same basis as some of the social questions which have been troubling the orthodox people of India and in regard to which it is asked that they should not be interfered with. That cannot be so. We know full well, and the Raja Bahadur also knows it full well, that whenever a Resolution is passed, it is not put into execution forthwith. The Resolution under discussion only asks that the Governor General in Council may take early steps to secure the establishment of a Supreme Court in India. It talks of "early steps" being taken and not that the Court should be started at once as the Raja Bahadur thinks.

Coming to the merits of the question, I do not think that there can be much controversy as to the need of a Supreme Court for India. I do not think that on that question even the Government would say no. The Round Table Conference report, to which reference has been made, also concedes that a Supreme Court is necessary, and the necessity having been admitted the question is whether there should be any delay. The point is that the country has been suffering without a Supreme Court. It has been prominently brought out today, that if proper justice is to be given to this country, especially in criminal cases wherein people are to be hanged, there should be a second appeal to the Supreme Court. The Indian Penal Code provides capital punishment primarily and transportation secondly, for murder. Therefore it is very important that in cases of capital punishment there should be the highest tribunal to give a final decision before a man is hanged. Without taking any more time of this House, I submit that, so far as the question of establishment of a Supreme Court in India is concerned, I am in full agreement with this Resolution. Further reasons in support are already given in the Resolution itself. Apart from all that, it is very costly to reach the Privy Council—6,000 miles away—to have the final appeals decided, and the delay that is involved is ruinous. Sir, I therefore heartily support the Resolution.

Dr. F. X. DeSouza (Nominated Non-Official): When my Honourable friend Mr. Puri began to address this House on this Resolution which is before the House, I thought he was going to address us about what the constitution of this new Supreme Court was going to be, what its functions were going to be, how the personnel was going to be recruited and whether the same Court should continue the functions of a Federal Court and a Supreme Court, but I was surprised to find that in the course of his speech,—which unfortunately had to be curtailed owing to the time limit being short—he devoted the bulk of it mainly to a plea for enlarging the right of criminal appeals. He dwelt upon the imperfections of the administration of the criminal law in this country, pointing to the inefficiency of the police force, to the fact that the committing magistrate merely serves as a post office, to the fact that in the Court of Session the assessors are a body of illiterate men whose verdict of guilty the Judge

accepts implicitly but upon whose verdict of not guilty the Judge adversely comments as being the verdict of illiterate and incompetent men—for these reasons he said that the right of merely one appeal, especially against sentences of death to the High Court was insufficient, and a right of second appeal was necessary. I venture to say, assuming all the allegations which he made against the machinery for the administration of criminal justice in this country are true, would a remedy be provided by the provision of a right of second appeal? The court of second appeal as you are aware, Sir, can only act upon materials which are properly on the record in the original court. Therefore, whatever the number of criminal appeals you may provide unless the foundation is well and truly laid in the first court, it is useless to provide the machinery for multiplying the number of appellate courts. I think, Sir, the proper remedy for the abuses which my Honourable friend Mr. Puri mentioned is not to provide a right of second appeal in criminal cases, but rather to strengthen the police force, the magistracy and the Sessions Courts. I have some experience of the administration of criminal justice and I can say, without fear of contradiction, that during recent years there has been a marked improvement in the machinery for the administration of justice, especially criminal justice, in this country. The qualifications which are now required by the Government for the magistrates as well as the judiciary are gradually getting more and more exacting. The class of men from whom the magistracy and the judiciary are recruited is getting more and more educated, and I can say without fear of contradiction that both in point of integrity, learning and judicial acumen, the magistrates and the judiciary today are far ahead of what they were 30 years ago. If this state of affairs continues, and when the new Government comes into power, I feel certain it will improve still more because the Government will then be more in touch with the people; they will devise machinery in order still further to strengthen the administration of criminal justice, and then the need for a second appeal will be far less felt than it is today. Sir, I had the honour of serving on the Civil Justice Committee some years ago and there we had to consider the question of the right of appeal in civil cases, and the opinion we there recorded, after a careful examination of all the evidence that was placed before us—and that evidence was examined by no less a person than Sir George Rankin, the present Chief Justice of Bengal, was this, that it is time that the facilities given for futile and unnecessary appeals should be curtailed as much as possible. The principle we have to place before us is:

“Interest reipublicae ut sit finis litium”.

“It is to the interest of the State that the litigation should be reduced to the utmost possible limit, provided the right of the subject to obtain justice is not curtailed.” I think we have already sufficient right of appeal with regard to civil cases, and I am certainly opposed to multiplying the right of appeal in criminal cases. Even in England, Honourable Members are aware that it is only very recently that the right of criminal appeal was given in the English system, and although there have undoubtedly been cases of miscarriage of justice brought to light, yet time after time the judges sitting on the Bench of the criminal appeals have observed that a large number of appeals that come before them are perfectly futile and waste the time of the Court. I entirely agree that the persons condemned to the extreme penalty of the law should be allowed every latitude, but is there any reason to suppose that the facilities now given are insufficient?

[Dr. F. X. DeSouza.]

Is there any reason to say that the High Court, where two experienced judges examine every detail after hearing counsel on both sides and come to a unanimous conclusion with regard to facts—because after all in a criminal case it is mostly a question of fact and not of law—will go wrong, and that a court sitting 5,000 miles away and composed of judges who are ignorant of the conditions of this country and who cannot appreciate the nature of the evidence given in criminal courts in this country, is likely to come to a more reasonable or sounder conclusion than that arrived at by judges in this country? I feel, Sir, that there can be no foundation for such a suggestion. It seems to me that the very arguments which my friend Mr. Puri has advanced have the effect of demolishing the Resolution which he has put forward, for if his arguments are to be accepted, then the proper remedy is not the creation of a Supreme Court but the strengthening of the magistracy and the judiciary in this country. With these words I resume my seat.

The Assembly then adjourned for Lunch till Twenty-Five Minutes to Three of the Clock.

The Assembly re-assembled after Lunch at Twenty-Five Minutes to Three of the Clock, Mr. President in the Chair.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhamadan): Sir, this Resolution does not call for many words to support it. Honourable Members will find if they turn to the Indian Round Table Conference report recently published that, when dealing with the question of a Supreme Court in India, what they have recommended is this. They have recommended that so far as the Federal Court is concerned, it should be established, but when they came to the question of the establishment of a Supreme Court dealing with what is called the administration of municipal law, civil and criminal, as between man and man, there was a division of opinion. Some said, establish it as a part of the Parliamentary Constitutional Act, and others said leave it to the Federal Legislature to enact by an Act of their own later on if they feel so advised. They further said that we have also no materials before us at the present moment to decide whether the Supreme Court should be armed with jurisdiction to hear appeals in civil and criminal cases. That Honourable Members will find in paragraphs 64 and 65. In this view they followed the procedure which, as I shall presently point out, is the procedure which was followed by Parliament when enacting the North-America Constitution Act of 1867 in which they provided merely a skeleton constitution for the creation of a Supreme Court and left the Government of Canada to implement its terms by setting out the specific powers that that Court would exercise. But since the Act of 1867, known as the North-America Constitution Act, there have been other Acts, the Act establishing self-government in the Commonwealth of Australia and in the Union of South Africa enacted in 1900 and 1909 respectively, in which the Parliament does not provide for a mere sketchy constitution for the creation of a Supreme Court, but also lays down that that Court shall possess the power of hearing appeals in civil and criminal cases. Those Honourable Members who desire to study the subject with more particularity will find all this set out

in this book called the "Select Constitutions of the World". The jurisdiction of the Supreme Court of South Africa will be found set out in Part VI and the power of the Court to hear civil and criminal appeals in sections 103 and 104 of the Parliamentary Act. In the case of Australia they will find the same provision made in Chapter III of that Act. The latest constitution creating a self-governing Dominion within the British Commonwealth was the Irish Treaty embodied by the Parliamentary Act of 1920. In that there is no provision made for the creation of a self-contained Supreme Court for Ireland, and that has been the grievance of the Irish Free State and you will now find that, with the passing of the Statute of Westminster a few months ago, the Irish State can establish a Supreme Court of their own by their own legal Act. The position, therefore, as regards the constitution is that, except the Canadian model of 1867, the tendency in later Acts of legislation has been not merely to provide for the framework of a Supreme Court but also to set out the specific powers which that Court would exercise. That is the situation. Now, when the Round Table Conference met, they were confronted with these two salient examples—the examples of the North-America Act and the Acts of South Africa and Australia. When they deal with the question as to whether they should, by the Act of Parliament, confer upon these Courts specific jurisdiction to hear civil and criminal cases they wrote as follows:

"The Committee had not the time at their disposal to enter into a close examination of the question whether in principle a court of Criminal Appeal for the whole of British India is desirable; and they do not feel themselves able to express any opinion upon the matter, though they recognise its great importance. For the same reason that they hesitate to recommend immediate establishment by the constitution itself of a Supreme Court for appeals in civil matters from the High Courts of British India, the majority is unable to recommend immediate establishment of a Court of Criminal Appeal."

They, therefore, hesitated because they did not have the materials before them, and you, as the representatives of the people, are to provide the materials which the Round Table Conference lacked when they indicted this report. Therefore, you as voicing the sentiments of the people should say that following the examples of the later constitutions of the Dominions of the Empire, the Parliamentary Act should provide not merely for the sketchy constitution of the Supreme Court but also for the exercise of specific powers of hearing appeals from civil and criminal cases. That is the short point which Honourable Members have to decide here in connection with this Resolution.

Mr. B. Das: And to give our mandate to the Round Tablewallas.

Sir Hari Singh Gour: Yes, that is the position. I have not been able to understand what Honourable Members, who have spoken somewhat lukewarmly about this Resolution like my friends the Honourable Mr. Raju and the Raja Bahadur, and last but not least the Honourable Dr. DeSouza, were really driving at. Taking the Honourable Dr. DeSouza first, he says that there has been a great improvement in the personnel and efficiency of the magistracy and the Sessions Court. I grant it. But that is all the more argument in favour of this Resolution. Does my Honourable friend realise it? The Sessions Court, we will say, is a thoroughly efficient court and sitting with a jury it tries a murder case and acquits the accused. The Government have got the right of appeal to the High Court. The appeal is launched in the High Court and the High Court reverses the Sessions Judge's judgment and orders the execution of the accused. Is

[Sir Hari Singh Gour.]

there any appeal against that? There is no appeal at all. The question is not, as my Honourable friend Mr. Puri inadvertently said, let us have two appeals in criminal cases. This question raises the question of the fundamental right of a single appeal to an accused who has been condemned against the verdict of that impeccable Sessions Judge sitting with that omniscient jury. That is the position with which we are confronted in this country in regard to the administration of criminal law. Then take the other side of the picture. When the Sessions Judge passes the sentence of death, the Government of India Act provides that the order of the Sessions Judge is merely a recommendation to the High Court. The High Court then hears the arguments for and against the recommendation of the Sessions Judge. Up to that stage, there is a hearing, but when the final order is passed by the High Court, there is no appeal. That is the gravamen of the complaint which we on this side of the House make regarding the criminal administration of justice in this country. It is not a case of multiplying appeals, it is not a case of two appeals, it is a case in which we are claiming the fundamental right, the elementary right of a man to have an impartial judgment pronounced upon his innocence or guilt after he has been condemned and the final order passed against him. Can anybody deny that this lacunæ in the Indian criminal law should be rectified with the least delay? That I submit is an unanswerable argument as regards the establishment of a Supreme Court, armed with the jurisdiction of hearing appeals against the sentence of death and serious allied offences.

Now I pass on to the question of civil cases. Here again I am afraid the protagonists who spoke on the Round Table Conference, and their comrades, who have spoken from the other side of the House, have entirely misunderstood the situation. There is no intention of giving anybody more right of appeal. The intention is that the appeal to which he is entitled under the present Civil Procedure Code shall be heard by a tribunal nearer home at less cost and with greater convenience to himself and to his advisers. These are the fundamental principles upon which we claimed the establishment of a Court at home for the disposal of civil appeals. My friend, Dr. DeSouza, who seems to have been prompted to speak on the spur of the moment, seems to have completely forgotten that when he sat on the Civil Justice Committee and recommended the curtailment of the right of second appeal, this House, after mature and deliberate consideration, set aside the verdict and the recommendation of my Honourable friend and his colleagues. It is too late in the day to appeal to deliberations and decisions of the Civil Justice Committee. That is dead and was decently buried by this House a few years ago. What is then the position? Some Honourable Members on this side of the House, who seem to have made a superficial examination of this question, told us that we shall be prejudicing the Round Table Conference. Others have painted upon the portals of their gate and even on the Assembly, the ominous word "Tomorrow". Whatever you want to do, the argument is "Look at that word cut in deep black letters upon the forefront of this Assembly, 'Tomorrow'." Now it is for this House to decide whether a measure of this urgent reform, whether a measure upon which this House is entitled to give a lead to the country at large and to the Round Table Conference who have expressed their inability to decide upon this momentous question for lack of guidance and

for lack of suitable materials before them, whether we should not by passing this Resolution supply the material which they lack so that the representatives to the Round Table Conference like my Honourable friend Sir Cowasji Jehangir and Mr. Mody may say, "We have the imprimatur of the premier institution of this country representing the popular sentiments, representing the popular grievances when they demand that the constitution to be embodied in the Act of Parliament shall follow the modern lines of advance contained in the more recent constitutions of Australia and South Africa". Let us not burke the question by thinking that we are either eclipsing the Round Table Conference or hesitating to advise them as to what we consider to be the popular demand.

I wish to point out to the House in the very little time I have at my disposal that, so far as the bulk of this Resolution is concerned, that has been now approved of by the Round Table Conference. Take for example the interpretation and upholding of the constitution. They decided that that would be the function of the Federal Court. There was a dissentient voice or voices raised when the establishment of a Federal Court and the Supreme Court were asked for by the creation of a single judicial authority and though in their provisional conclusion they decided that the Supreme Court and the Federal Court should be a single body, an expression of opinion on your part will reinforce and restrengthen their view which they have taken in spite of the opposition presented to them from interested quarters. That I submit is a part of the Resolution which must equally go through. Then you have clauses (b) to (d), and these are cases of civil and criminal appeals which I have already dealt with. Then we have clause (e) dealing generally with the work done at the present moment by the Privy Council. Let me explain what this means. Under the Judicial Committee Act, 1833, the Judicial Committee has got the power of advising upon certain matters—that is, section 4—all those matters as are referred to in para. 58 of the report of the Round Table Conference. What we want is that the power which is at the present moment statutorily exercisable, not that it is exercised, by the Judicial Committee of the Privy Council shall be transferred to the Supreme Court. That disposes of the sub-clauses. There remains the proviso, that the King's prerogative preserved in the constitutions of Australia, South Africa and Canada shall not be interfered with. That is a self-evident proposition, and cases may arise and will arise when the King will have to exercise his prerogative and which we want to be statutorily preserved and safeguarded as it is in the other constitution of the British Commonwealth. That, Sir, is all that the Resolution asks for. I fail to understand why there should be any discordant note struck from any side of the House in giving the deliberations of the Round Table Conference and our spokesmen there the lead they want, and without which they would not be able to act with that assurance and certainty the lack of which they have themselves confessed, and which is noted in the paragraph of the Round Table Conference to which I have adverted. Sir, I think the Honourable Member's Resolution is a perfectly sound one and I do not think Government should exercise their right of opposing the Resolution in view of the facts I have stated.

The Honourable Sir James Crerar: Mr. President, my intervention in this debate will be very brief and very limited in its purpose. It will be limited in fact merely to answering in the briefest possible terms the question which was put in his concluding sentence by the Honourable the Leader

[Sir James Crerar.]

of the Nationalist Party. It was observed by the Honourable and learned gentleman from the Punjab who moved this Resolution that its subject-matter had formed an important part of the consideration, and the discussion of the Federal Structure Sub-Committee. He informed the House of the conclusions, so far as conclusions had been reached, by that Committee, of the points which that Committee had left open and of the points which he conceived were very proper for consideration and discussion by this House. Now, Sir, from the point of view of Government, I wish to say that while I take no exception whatsoever to Honourable gentlemen opposite putting different constructions upon the conclusions,—so far as they are conclusions—arrived at by the Committee, or putting forward the views which they themselves hold, the position which Government must take as regards their general attitude towards the Resolution is this. An answer, either affirmative or negative, to many of the questions which are propounded in this Resolution must necessarily anticipate a state of affairs which we on this side of the House can hardly be expected to anticipate in such a manner as to lead us to commit ourselves finally upon these propositions. Consequently Government will not oppose this Resolution; but I must make it clear that the fact that they do not propose to oppose this Resolution must not be construed to mean that they are prepared to affirm all or any of the propositions which it contains. And for that reason, if this Resolution is pressed to a division,—a course which I venture to suggest in all the circumstances of the case may be found neither necessary nor profitable,—Government and the official Members will not vote in the division.

Now, Sir, though I do not wish to deal, as I said, with the intrinsic merits of any of the propositions contained in this Resolution, I must say a few words upon one of the arguments which was employed by the Honourable and learned gentleman from the Punjab who moved it. It was part of his case, as I understood it; when he was speaking more particularly on the question of granting the jurisdiction of criminal appeals to a Supreme Court, his case was largely founded upon the alleged demerits of the large

body of public servants whose duty it is to contribute in one way or another to the administration of justice. His strictures began with the police; they covered the committing magistrates and even the assessors who are not exactly public servants but citizens performing a public duty imposed upon them; he passed on to the Judges of the Courts of Sessions, and by necessary implication there was some disparagement of the merits as courts of criminal appeal of the High Courts in India. Now, Sir, if the Honourable gentleman had limited himself to the proposition that neither our police forces nor our magistrates, nor our courts of law nor some of the other elements and factors which are closely concerned with and contribute to the administration of justice attain to a superhuman ideal of perfection, I should have no exception whatever to take because the same could be said of any other country in the world. But when he selected for what I regard as unmerited strictures the police forces in India and the judiciary, I cannot allow these strictures to pass without a word of protest on my part. They have a very difficult task to perform. The most difficult is that performed by the police forces, but the task which is performed by the judicial officers is also often one of extreme difficulty; and I do not think that the Honourable Member had any legitimate warrant in basing his case,—whatever its merits otherwise be on points of jurisprudence, of

law and of the machinery of judicial administration,—I say that I do not think that he has any good warrant and that he was following a somewhat unwise course in basing his argument on strictures of that kind.

Sir Edgar Wood. (Madras: European): Sir, I join this debate not as an expert on the functions of Supreme Courts and Federal Courts but to try and give my interpretation of the feelings of the Round Table Conference when they came to make their recommendations. The hesitation of the Round Table Conference with regard to the immediate establishment of a Supreme Court was very largely connected with the matter of finance; and I beg to point out to the House that we have had no further enlightenment upon that point today either by the Mover of the Resolution or by those who have supported him. And in these days when the finances of India are one of the vital factors which should rule us in all our decisions in this House, I am really surprised that such a seemingly irresponsible sort of proposition as this should be put up; because I say it is irresponsible if Honourable Members do not take the trouble of going into the question of finance. I take it for granted that Honourable Members have given some consideration to this matter, but if they wish the motion to be pressed to a successful issue, it is undoubtedly their duty to inform the House what conclusions they have reached on that matter. It was on that account largely I think that the Round Table Conference suggested a division of the Federal Court into Federal and Supreme. In the debates numerous pros and cons came to light, and I think anybody examining those debates would come to the conclusions that the cons have it, and that a division of the Federal Court would not be advisable. But that perhaps is not a question into which we need enter to-day. Then of course there is the question of the Indian States coming into the Federation and that also would influence this question of the division of the Court. It is for these reasons that the Federal Structure Committee advised a close examination of this question by experts in a committee of investigation. I would ask my Honourable friends on the other side of the House not to forget that these recommendations were made, in spite of what they may say, by a very representative body. In that Federal Structure Committee there were Mr. Gandhi, Pandit Malaviya, Mr. Rangaswami Iyengar, Mr. Ramaswami Mudaliar, besides representatives of the States; and when the Honourable the Mover of the Resolution said that this was being thrust upon him by people in whom he had no confidence, it seemed to me that he must have no friends in the world! In the proceedings, the Lord Chancellor refers to the opinions expressed on the number of Judges which might be expected to be required in this Supreme Court, and I think it is recorded in the proceedings that members have mentioned it as their opinion that about 30 judges would be required; and when this question was referred to a very eminent lawyer in London by the European Group he advised us that it depended very largely upon what the duties of the court would be with regard to appeals and so on; but he put it down eventually at about 50 judges. Perhaps that is one of the reasons why my Honourable friend on the other side of the House is so strongly recommending his motion! It is quite contrary to facts to say that, as suggested by one Honourable Member, the Round Table Conference expected their views to be accepted as a sort of mandate for delay in establishing a Supreme Court. The Round Table Conference has definitely recorded in those proceedings and in their resolutions, that this House, re-constituted of course, is the proper body to deal with this matter of the Supreme Court. It is most clearly stated that this House is the body to decide the time of creation of this Supreme Court, and its functions, and

[Sir Edgar Wood.]

the powers that it proposes should be given to that court; and it proposes that power should be given in the new constitution to this reconstituted House to create a Supreme Court under the new constitution whenever it feels disposed to do so. For Members to make a grievance of the fact that there is a recommendation of the Round Table Conference that this House should delay this matter is palpably and perfectly absurd. There is no grievance whatever to be manufactured on a point of that sort. The Federal Structure Committee obviously did not wish the new Government of India to be tied in advance to something which they might find to be a heavy burden at first.

There is one other matter that has not been very much touched upon. I consider it a much more controversial matter than the first part of the motion; and that is the proposal to abolish—which is what it amounts to—the right of appeal to the Privy Council. That has been touched upon by the last Honourable speaker, but the Mover of the Resolution kept away from it almost entirely, I noticed. It seems to me a very important thing, and I was very much surprised that members of the minority communities in this House had not sprung up and concentrated upon this particular aspect of the motion, because, so far as I can make out, the members of the minority communities require in the new constitution the right of appeal to the Privy Council. That has been my reading of the position: so far I think they have not actually made up their minds yet as to what right of appeal they should have; but they certainly have not abandoned the idea of appeal to the Privy Council; and so long as communal questions exist, it seems to me that the right of appeal to the Privy Council will be one which they will cherish.

The whole question today seems to me to be one of slight delay as against hasty and unconsidered legislation. I am very sorry to hear that the Government intend to abstain from voting on this matter, because I think the principle at stake is whether this House should be permitted to recommend or not to Government an irresponsible proposal—because really we cannot label it as anything else but of a very irresponsible nature. Therefore on that ground I beg to oppose this motion.

Mr. R. K. Shanmukham Ohetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): Mr. President, I would like to congratulate my friend, Sir Edgar Wood, on the very able maiden speech that he has delivered in this House, and we are looking forward to valuable contributions from him in future debates; and if I intervene in this debate today, it is not because I have got any original contribution to make, but for the simple reason that I would like to recall to this House a similar debate that took place in the year 1925 and the lead given on that occasion by my late revered leader, Pandit Motilal Nehru. On that occasion my redoubtable friend Sir Hari Singh Gour sponsored this Resolution, and on the advice and lead of the late Pandit Motilal Nehru, this House rejected that motion; and now I see that the circumstances have not so altered as to warrant us taking any different course from the one recommended to us by Pandit Motilal Nehru. I am afraid some little confusion has been caused in the minds of some of us as a result of the deliberations of the Round Table Conference and the possibility of the establishment of a Federal constitution in India in the near future. That a Federal Court with powers to interpret the constitution and to adjudicate in any disputes between one state and

another, between one member of the Federation and another, is necessary no one can doubt, and no one can question; but whether in addition to that Federal Court, we ought to have a Supreme Court, which would either take the place of the Judicial Committee of the Privy Council or act as an intermediary between the High Court and the Privy Council, is a question on which I at least am not competent to express an opinion at this stage. Sir, my late revered leader, Pandit Motilal Nehru, speaking on that occasion in 1925, gave very many arguments why we ought not to subscribe to the proposition that a Supreme Court should be established at the present juncture. He said

"The very first thing that we have got to do is to reform such courts as we have and also the procedure which is followed in these courts. No number of Supreme Courts in India would in any way promote the cause of justice so long as the executive and the judicial functions remain combined as they are and racial discriminations continue to be observed as now."

Sir, my friend Sir Edgar Wood drew the attention of this House to the financial burden that might be imposed upon the country as a result of the establishment of a Supreme Court, and the late Pandit Motilal Nehru drew pointed attention to this aspect of the case also:

"After all", he said, "an appeal to the Privy Council, as I know from my personal experience, is more or less a luxury for the rich, and I really do not see why the poor man should be burdened in order to afford that luxury to the rich. If a Supreme Court is established in India, the finances of India will have to be burdened with the expense of the maintenance of that Court. That means taxation, and there is no reason whatever why this luxury should be enjoyed by the rich at the expense of the poor."

Well, Sir, that argument, I suppose, holds good even today. I am not, as I said, competent to express an opinion whether the existing system of appeals to the Judicial Committee of the Privy Council is satisfactory or not, but here again I have got the authority of the late Pandit Motilal Nehru when he said that in most cases the cost of a Privy Council appeal is prohibitive, but not always:

"In any case, I think, whatever hardship is at present suffered on that score is not too high a price to pay for the justice that is ordinarily obtained in the Privy Council."

Sir, Pandit Motilal Nehru could not be accused of having a partiality for English institutions, and when a person of his eminence says that the price that has to be paid for justice in the Judicial Committee of the Privy Council is worth paying, I at least am prepared to accept that dictum of the late Pandit Motilal Nehru. Sir, the venerable Pandit used another very practical argument. He said:

"It will be difficult to find competent men to occupy seats on the bench of the Supreme Court of India outside the ranks of the superannuated Judges or Chief Justices or perhaps also equally superannuated members of the Bar."

It is quite possible that that has changed now and that under the existing circumstances we might have eminent men like our friend Sir Hari Singh Gour to adorn the Bench of the Supreme Court, who might agree to undertake that sacrifice, but still, Sir, this is certainly a matter that ought to be seriously considered. And, Sir, in concluding his magnificent speech, the venerable Pandit said this:

"I quite agree that the time for it will be when we are a self-governing people, and not a day before."

Mr. B. Das: Now is the time.

Mr. R. K. Shanmukham Chetty: And the time will soon be when we will be a self-governing people, and my advice to my friends will be, let that self-governing country decide whether we should have a Supreme Court or not. We are not a self-governing Legislature, and therefore let us not rush in where angels like the late Pandit Motilal Nehru feared to tread. My friend Mr. Ranga Iyer made another excellent contribution to the debate on that occasion, and he said, concluding his speech,—“What we want is not a Supreme Court but supremacy”. We are going to get that supremacy in the near future, and when we do get that, let us decide whether we should have a Supreme Court or not.

Mr. C. C. Biswas (Calcutta: Non-Muhammadan Urban): Sir, I was not here all the time this debate was going on, but I am not quite sure if I should count that as a disappointment. I cannot claim to have made a study of this question with that thoroughness with which some of my friends like Sir Hari Singh Gour and others have gone into it, but I do not mind telling the House that I am not at all enamoured of this idea. We are all aware that one of the worst things in India is its system of never-ending litigation. It is a bane, and the less we have of it, the better. I wish I could sweep away the multiplicity of courts which burden the country already. Instead of adding one more appellate court, I should have thought the remedy which my friends should suggest was in the opposite direction, a diminution in the number of courts of appeal in India. I am not quite sure what is in the mind of my friend who has sponsored this Resolution, whether he and his friends who have supported this Resolution want a Supreme Court in place of the Privy Council, or in addition to it. If it is to be in addition to the Privy Council, I for one do not see the justification for any such institution. For one thing, there is no such thing as an absolutely correct final judgment. Is it not after all a convention that what the final court of appeal says is the last word on the subject? It is a matter of indifference which is the final court of appeal. No doubt, we must take steps to see that the constitution of the final court of appeal is as good as one might possibly make it; we ought to make it as perfect as we can; but having constituted the court of appeal, we must leave it to say the final word. There is no point in setting up over that final court of appeal yet another higher tribunal; theoretically, there will be no end to the process. The result will be only to encourage more appeals. The Privy Council is already there. My friend Mr. Chetty reading from the speech of the late Pandit Motilal Nehru pointed out that the cost of appeals to the Privy Council is prohibitive. I do not consider that to be an unmixed evil. The very fact that the cost is prohibitive compels many suitors in India to be content with the High Court decision as the final judgment. The luxury of an appeal to the Privy Council is for those who can afford it; let them go to the Privy Council by all means. But if on the other hand you have a Supreme Court in India sitting as an appellate authority over your High Courts, the result will be, the suitor will beg, borrow and steal in order to carry his case to the Supreme Court, and take his chance. We know how families have been ruined in their craze for obtaining justice from court to court in this country. The very fact that the Privy Council is sitting at a distance of 6,000 miles away itself acts as a wholesome check on the proclivities of litigants, and that I consider to be a blessing in disguise. If, however, you have a Supreme Court in India, in 95 cases,

if not in 99 out of every 100, you will find parties anxious to be trying their luck in the Supreme Court. I do not consider, Sir, that to be a consummation to be devoutly wished for.

There is also another matter to be considered. In the cases which are or which can be now taken up to the Privy Council, there is a feeling that the decisions of the Privy Council are generally just and right, and those decisions command public confidence in this country. One reason is that their Lordships of the Judicial Committee are supposed to be, as they actually are, above all extraneous influences. On the other hand,—I speak with the utmost respect,—we are aware of instances in which the decisions given by even the highest courts in India have been carped and cavilled at, because it has been openly suggested that the Judges were not above executive influences. In any case the circumstances in this country have made it possible to make suggestions of that kind. On the other hand, when you have the Privy Council deciding a case, I have not in my limited experience heard even a faint whisper that the Judges of that tribunal were susceptible of any such influences. If we have a Supreme Court, the result will be this: you cannot avoid things of that kind being said of the Supreme Court. Is that something to be desired? On these practical grounds, I do not think we should be justified in recommending from this side of the House yet another court of appeal in India. The High Court is there, and it ought to be quite enough for all practical purposes.

The Honourable Sir Brojendra Mitter (Law Member): Sir, if I intervene in this debate, it is because of my partiality for anything which savours of law. The position of the Government has been explained by the Honourable the Home Member. Therefore, whatever I am going to say now is in my capacity as a lawyer who has ceased to practise and probably on that account, in a position of greater detachment than many of my Honourable friends opposite who are in active practice.

Sir, this question can be approached from different points of view. There is the lawyer's point of view, of which we have heard a good deal this morning. There is the point of view of the litigant; there is also the point of view of the State, the community at large. Sir, the point on which attention was mostly concentrated this morning was criminal appeal—that there should be a Supreme Court dealing with criminal appeals in cases where death sentences have been passed. One of the arguments adduced by Mr. Puri was that if there be two appeals in civil cases, why should there not be two appeals in criminal cases. I was amazed to hear that argument from an experienced lawyer like my Honourable friend. Is not there a difference between civil cases and criminal cases, a fundamental difference between the two? Is there not a difference between a private right and a public right? What are civil cases? Civil cases arise when private rights are infringed and the injured person goes to court for redress for the infringement of his private right. What is a criminal case? There it is infringement of the right of the whole community; that is a criminal case. It is of the essence of criminal justice that it should be speedy. That is not of the essence of a civil case. A learned judge in England has said that cost is the panacea which cures all sores in civil litigation. If litigation is prolonged, if costs are incurred, there is compensation there. But in a criminal case the community has no such compensation, and therefore it is of the essence of a criminal case that justice

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should be speedy. In order that justice may be speedy it is not desirable that you should multiply courts of appeal. I was somewhat astonished to hear from my Honourable and learned friend Sir Hari Singh Gour that there was really no appeal in criminal cases. I may be doing him an injustice, but my understanding of what he said was this that a trial takes place in the Sessions Court and the verdict of the Sessions Court is a mere recommendation to the High Court, and when the High Court hears the matter it is not by way of appeal but merely by way of reference.

Sir Hari Singh Gour: What I said was that the recommendation of the Sessions Judge does not take effect until it is confirmed by the High Court, and it is only during those proceedings that the High Court hears both sides. After confirmation and passing of the final sentence and order there is no appeal.

The Honourable Sir Brojendra Mitter: There is a whole chapter in the Code of Criminal Procedure which deals with appeals in criminal cases, appeals from Sessions Courts. What happens in murder cases is this. The prisoner lodges his appeal, and at the same time there is reference by the Sessions Judge for confirmation of the sentence. But that does not do away with the appeal. The appeal is there. There is an appeal in criminal cases.

Sir Hari Singh Gour: Against the final judgment of the High Court there is no appeal.

The Honourable Sir Brojendra Mitter: Of course, there is no appeal from the final judgment of the High Court. There is no appeal from the final judgment of any court in any country because otherwise it would not be final. What happens in England? What is the system in England? Have you got two appeals in capital sentence cases? No. There is only one, and some years ago there was none. It is only recently that an appeal court has been established in England.

Sir Hari Singh Gour: Is there any court like that in India?

The Honourable Sir Brojendra Mitter: Yes, we have got the High Courts of Judicature in India. They are the final Courts of appeal in every murder case. What is proposed is that there should be another court sitting in appeal over the High Court in these cases. What would be the result? The result would be delay which means in many cases defeat of justice. I began by saying that there are three points of view. The lawyer's point of view we have heard this morning. A cynic has said, more appeals more work. I do not endorse that. What is the litigant's point of view in a criminal case? To get an acquittal anyhow.

Sir Hari Singh Gour: To get hanged as soon as possible!

The Honourable Sir Brojendra Mitter: To get an acquittal anyhow, and the larger the number of appeal courts the greater is the chance of escape. (*An Honourable Member:* "Will there not be more justice?") I am coming to that presently. The point of view of the State, the point of view of the community at large is this, that justice should be vindicated (*An Honourable Member:* "And not be vindictive.") That is the supreme test,—that justice should be vindicated, that a guilty person should not escape, nor an innocent person be punished. The point of view of the State is that justice should be done, and that speedily.

Now, then, we have got our system. It is an elaborate system which has existed for many years in this country. That system starts with a police investigation. Then there is a magisterial enquiry; then there is a regular trial in a sessions court with the help of either jurors or assessors; and there is the final appeal to the High Court. There is this system which has been in existence in India all these years. It has been said that the first two stages, that is, police investigation and magisterial enquiry, are useless,—they are not very efficient. But is that any reason why an additional appeal court should be established? What does the appeal court do? The appeal court decides the case on dead record. The appeal court does not see the witnesses. All the work is done in the preliminary stages, in the stage of the police investigation, in the stage of the magisterial enquiry, and at the trial. If these are inefficient, if you say they are useless, then your additional court of appeal will be equally useless, because that appeal court will have to decide the case upon dead material which had been produced at these earlier stages.

Sir Hari Singh Gour: Upon what materials does the Court of Criminal Appeal in England decide these cases?

The Honourable Sir Brojendra Mitter: Mostly upon questions of law.

Sir Hari Singh Gour: You are making a reservation. Have you got a court like that here?

The Honourable Sir Brojendra Mitter: I do not suggest that every case is decided on a question of law, because, then, an open appeal would not be given; I say, mostly, on questions of law. It is the merits which you have to see are properly investigated, and not a multiplicity of courts of appeal which decide upon dead evidence. My submission before the House is this, if you want criminal justice in this country improved, concentrate on improving defects in the existing machinery, but the addition of another court of appeal will not give better justice.

My learned friend Sir Hari Singh Gour said this is a matter of fundamental right. I do not quite appreciate what he meant by fundamental right. We have got the right of appeal. Is there any such thing as a fundamental right to a second appeal? I have never heard of any such fundamental right in any advanced system of jurisprudence. The fundamental right is that a proper court should adjudicate. That is the fundamental right of every citizen, and in order to correct errors of the ordinary court, in most systems of law an appeal is provided. I may say that this is a corollary of the fundamental right to justice. But where this second appeal comes in as part of the fundamental right of the citizen, I fail to understand. Sir, the Resolution deals with two matters. One is the establishment of a Supreme Court and the second part deals with the functions of the Supreme Court. As regards the establishment of the Supreme Court, whether it is necessary or not, I express no opinion, although I hold decided opinions on that point. As regards the second part, what I wish to bring to the notice of the House is that some of the functions mentioned here are such that I for one would never subscribe to. That is the establishment of a second court of criminal appeal and the abolition of the Judicial Committee of the Privy Council.

Mr. B. B. Puri: Nobody has said "abolition".

The Honourable Sir Brojendra Mitter: It is abolition of the Judicial Committee of the Privy Council and the substitution of a mock Privy Council in this country. That is the proposal.

Mr. B. R. Puri: You may happen to preside over it. Don't call it a mock Council.

The Honourable Sir Brojendra Mitter: I do not want to preside there. I may practise there. Now, the functions of the Supreme Court as laid down here are to hear civil appeals now heard by His Majesty's Privy Council and generally to carry out the work at present entrusted to His Majesty's Privy Council. I read these two clauses as abolition of the existing Privy Council dealing with Indian matters and the establishment of a court with similar jurisdiction in this country. As a lawyer who has had some experience of cases I would strongly object to these two parts, if I had a free vote, but the Honourable the Home Member has said we were not voting, and besides, I have no vote.

Sir Hari Singh Gour: You forget you have no vote in this House.

The Honourable Sir Brojendra Mitter: I realise that. Even if I had a vote, I could not, having regard to what the Home Member has said. My appeal to the House is this. This is not such an easy matter as is sought to be made out. This is a matter of very great gravity. My friend Mr. Chetty has pointed out the view, which an experienced man like Pandit Motilal Nehru held not very long ago and those are considerations which should not be lightly brushed aside. Do not lightly commit yourself to a view and do not be carried away by mere enthusiasm. This is not a matter of enthusiasm. This is a matter for cool thinking.

Mr. A. Hoon (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): Sir, I rise to support the Resolution as put forward by my Honourable friend Mr. Puri. I am afraid as the debate has been proceeding, lots of misunderstandings and misconceptions have been creeping into it. We find that there are some Members of this House who at the early part of the debate were giving us this advice only—"Wait, there is no hurry." "We are going to get something like what you want very soon and as such there is no use discussing a Resolution of this kind at this stage." A gentleman from Bengal who, I understand, belongs to the legal profession has sung a different tune altogether and he has given us to understand that people in this country are not fit either in view of their integrity or in view of their honesty to hold the positions of judges of a Supreme Court in India. If this is true, I am extremely sorry to hear this. We have got to make the best of the men we have in our own country. Whatever may be the kind of people that we have, we insist upon having our own judges and a final appeal court in our own country. A European gentleman from Madras, who is evidently holding a brief for the minorities, has to my regret thrown out a suggestion today, saying, "Why don't the members of the minority communities come forward and raise an objection to the establishment of a Supreme Court", because he thinks that it is the privilege of the majorities to say that they will have no confidence in a Supreme Court is established in India. My answer to that gentleman is that if the members of the minority communities, who I believe are generally said to be poor as compared with the members of the majority community, want to take their cases to the Privy Council, they may have that privilege. Let the other people who want their cases decided cheaply and nearer home have

them decided here although I am sure that by the time we establish a Supreme Court in India my friend will reconcile himself to that position. Without going into the question as to whether it is going to be a Federal Court or a Supreme Court, I look at the Resolution entirely from the point of view that it is due to us that we should have a proper second court of appeal in criminal cases in this country. We are told that the Federal Court will soon come into existence. We are also told that a Supreme Court will soon come into existence, but is it not a fact that there is a reasonable apprehension in our minds that this need of ours is likely to be overlooked because I find that an ambiguous answer has been given on this matter in the reports of the Round Table Conference. What we want is a definite assurance, as Mr. Azhar Ali has said, that when a Supreme Court is established, we will have the privilege of a second court of appeal in criminal cases. I am sorry I was not here when my Honourable friend Mr. DeSouza spoke with regard to the merits of the Sessions Judges in general, but I can safely bring it to the notice of the Honourable the Home Member that considering the number of appeals that the Government have filed from the decisions of the Sessions Judges in the United Provinces of Agra and Oudh, he should be able to come to the conclusion that there is room certainly for a third person to intervene. The number of such appeals Sir, has risen very considerably. I do not know if Mr. DeSouza thinks that the acumen and the ability of the Sessions Judges in the Bombay Presidency have gone up of late, but certainly in view of the Government appeals the quality of the work turned out by the Sessions Judges in the United Provinces is not considered by the Government themselves to be so good as it used to be in the pre-reform days. It has been suggested that there is a right of criminal appeal in cases which are decided by Magistrates. I have no quarrel with the work that Sessions Judges do, but in important and serious cases, especially in cases of capital sentence regarding which appeals go to High Courts, it is only fair that one should have a chance of going to a third party as well. My friend the Honourable the Law Member has said that if you want to improve the judicial system in this country you should try to improve the subordinate judiciary. Well, Sir, we have been asking the Government for years and years to separate the judicial and the executive functions, but they have refused to do so. We have got no alternative now but to ask for a third and comparatively more independent tribunal in our own country. I quite understand that it is possible that the Supreme Court that we shall establish in this country,—unless conditions considerably improve,—is likely, due to the atmosphere in which the courts exist, directly or indirectly, to be affected by the spirit of the executive, but I know that Sessions Judges are more independent than the Magistrates; the High Courts are more independent than Sessions Judges, and we hope that the Supreme Court Judges will be more independent than the High Court Judges. We have got to make the best of a bad bargain and that is all that we want. So, if the Government give us an assurance that they will incorporate the clause of a second appeal court in the new constitution I am sure that the Members on this side of the House will be fully reconciled.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, I should not have spoken today because it is more or less a lawyers' day but for a stray observation of my Honourable friend Mr. Shanmukham Chetty. He did me the honour of quoting from one of my utterances which I had made when I belonged to the Swaraj Party of which the late Pandit Motilal Nehru was the Leader. I do not

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want to recall to Mr. Shanmukham Chetty the discussions that took place at party meetings because party meetings, even though we have almost reached the stage of history, may be treated as confidential, but this much I may say, that there was a difference of opinion within the party in regard to the particular subject before us. Once a matter was made a party question, the party decided to present a united front and I had to obey the mandate of my Leader—that—was when he called upon me to reply to Mr. Mohammad Ali Jinnah, who met his arguments. Sir, much water has flowed down the Jumna since that observation was made by the great Pandit. If Mr. Chetty only took the trouble of reading the Nehru Report, he would find adequate references in it and also commonsense reasoning as to why a Supreme Court should be established in India. He quoted me as saying that I believed in a Supreme Court only when supremacy was established in India. We are today within sight of supremacy. My friend Mr. Arthur Moore in one of his magnificent speeches on the floor of this House, when the Round Table Conference idea was suggested and accepted, spoke of the coming supremacy. I may have occasion one of these days to quote that speech against Mr. Arthur Moore if he wanders into the region of suspicions and doubts and pessimism which he has not so far done except when he supports things that he thinks are necessary to support in order to usher in the dream which he dreamt on the floor of this House. Sir, I may also straightaway say that even supposing for a moment that I held an opinion that a Supreme Court should not be established in India then and the debate took place long before the Round Table Conference was in sight, I am perfectly entitled to change my opinion. Sir, "consistency in politics", as a great British politician once said, "is the virtue of an ass." (Laughter.) Emerson said "Consistency is the hobgoblin of little minds." Therefore, I should not be afraid of being called inconsistent, even supposing that some years ago I thought that a Supreme Court was not necessary because the Government had not taken such rapid strides in the direction of introducing supremacy in India.

Now, coming to the Round Table Conference itself, Honourable gentlemen in the Round Table Conference had expressed themselves strongly in favour of a Supreme Court. This is what they have said:

"A substantial minority of the Committee is strongly of opinion that the establishment of a Supreme Court for British India is a matter of urgent necessity and that such a Court should be set up by an Act of the Constitution itself without necessarily waiting until the time when the Federation comes into being."

That is the observation which I have just quoted from the Round Table Conference Sub-Committee's report which also includes the Prime Minister's statement, dated the 7th September, 1931 to 1st December, 1931. So much from the Round Tablers' point of view.

Sir, I do not very much think that there is sound argument in those who put forward their case thus! The Round Table Conference is in possession of this idea or the idea contained in this Resolution, therefore it will be well for us to leave the matter there. I think this Assembly has its own duty to perform. In a sense, it is more important than the Round Table Conference itself. The Round Table Conference owes its origin to the decision of His Majesty's Government and the nominees on the Round Table Conference are the representatives of His Majesty's Government. Representatives of public opinion are the Honourable Members seated on this side of the House. I would leave the matter there at present. I do not think it would be possible for us to discuss in this

House any single question if we agreed to the suggestion that the Round Table Conference is in possession of it. If we agree to that conclusion, we cannot discuss anything here, because anything and everything that we are putting forward from this side of the House is being discussed by the Round Tablers. Moreover, I do think that the Round Tablers sometimes require a lead even from this House. (Hear, hear.)

Sir, a maiden speech from the non-official European Benches, very clear and impressive, which we listened to with great pleasure dwelt upon the financial difficulties in regard to the establishment of a Supreme Court in India. But I am sure the very talented maiden speaker would recognise that even at present India contributes, I believe, £4,000 every year to the two Members of the Privy Council. That shows that India has not shirked its own financial burden, but I would not put it like that. I would put it on a higher moral consideration. Are we not to pay for justice if justice has got to be paid for a little more than we pay at present? Financial considerations should not stand in the way when considerations of justice have got to prevail. My own idea is that the poor people cannot afford to go to the Privy Council at present. So, if there were a Supreme Court in India, the opportunity that the rich man gets at present will also be thrown open to the poor man. I find the Honourable the Law Member shaking his head, but I would, with great respect to him, say that the introduction of a Supreme Court in India will also be satisfying from the poor man's point of view.

The Honourable Sir Brojendra Mitter: Litigation is not for the poor man.

Mr. C. S. Ranga Iyer: Litigation is not for the poor, but some people are rendered poor by too much of litigation. (Laughter.) Sir, I shall not take more time of this House because I find my friend Mr. Puri has been taking notes and the House is anxious to hear him.

Mr. F. W. Allison (Bombay: Nominated Official): I think that in every session since 1926 when I first had the honour of being a Member in this Assembly there has been a Resolution similar to the present one. In fact on previous occasions, I remember I had the privilege of speaking against such motions. I do not think it is possible that anything fresh can be said on either side with regard to the subject in general. But I rise to beg the indulgence of the House for not more than a few minutes; and I want to refer to one point of some importance which I am surprised has not been touched upon by any of the learned gentlemen who have spoken in favour of this motion. I am referring to death sentences passed by Chartered High Courts in the exercise of their original jurisdiction, that is after trial by jury. My Honourable friend Sir Hari Singh Gour just now told the House that there was no appeal from a death sentence passed by a High Court, and perhaps technically he was right. I am sure he was not trying to mislead the House. But every legal Member of this House knows that in certain circumstances when a death sentence has been passed by the High Court in its original jurisdiction, there may be a reference to a Bench of the High Court which has all the powers of a Court of appeal.

Mr. B. R. Puri: What provision?

The Honourable Sir Brojendra Mitter: Clause 26 of the Letters Patent of Calcutta, Bombay and Madras.

Mr. F. W. Allison: These circumstances arise when the Advocate-General gives a certificate that a substantial point of law is involved; and if he gives that certificate, the whole case is handed over to a special Bench of the High Court which has all the powers of an appellate Court. I think it is rather an important point, and I could not gather from what was said by those in favour of the motion as to what would be the functions of a Supreme Court in this case. Surely, in my opinion, and the Honourable the Law Member has expressed the same opinion, any appeal from a death sentence to the proposed Court would be on a point of law. In the case of these death sentences passed by the Chartered High Courts in their original jurisdiction you have what practically amounts to an appeal; and I think in those cases it would be absolutely unnecessary to have a further appeal to the proposed Court. In no civilised country is there a second appeal of that kind. That is the only point that I wanted to bring to the notice of the House.

Mr. B. B. Puri: Sir, I have listened with great patience to the very able speech delivered by the Honourable the Law Member and I propose to deal with the points raised by him. He began by giving us a definition of what is a civil case as distinguished from a criminal case. He said that private rights are supposed to have been infringed where there is an ordinary civil case, but in the case of criminal litigation, it is always the infringement of rights of the community that is involved. For that reason, he said that the trial of a criminal case necessarily is required to be very speedy, and because we want to have the whole proceedings terminated speedily, therefore, according to his argument that would furnish by itself a justification for curtailing the appeal. Now this is a very lengthy and rigmorle argument, and I should have thought that a gentleman with the experience of the Law Member should have known that there is such a proposition as that the more serious an offence, the more conclusive and cogent should be the proof, and if that is a correct proposition

4 P.M. and a correct principle, then I submit that where, in order to bring home the guilt of an accused person, very strong proof is needed, it *a fortiori* follows that there should be a better and a greater scrutiny into the nature and character of that evidence before you condemn the man. If it is necessary in order to bring home that offence or charge to a man that there should be strong proof duly scrutinised, then I submit on his own showing he has conceded that a right of appeal in those cases would not certainly be considered a luxury. It would be an appeal of necessity. Whatever may be the view with regard to multiplicity or the curtailment of the right of appeal or further appeal, so far as the infringement of civil rights is concerned there is no getting away from the fact that because a person is put on his trial for a criminal offence there should be every facility afforded to him more than the facility already due and given to a civil litigant. So far as the speedy character of these trials is concerned, I do not know if my Honourable friend has recalled to his mind,—if not then I will remind him—that this so-called definition of speedy trial is merely on paper. May I remind him that some of the most notable trials in this country have been unduly long, and one is proceeding now not very far away from here, within a distance of three or four miles of Delhi itself where, after a protracted trial of 13 months, they have just been able to get through the evidence of the first prosecution witness. Is this a sample of your speedy criminal trial? And is this a definition of it? May I further remind him that in Meerut, only 40 miles from here, there is another

speedy trial which has been in progress for over three years and the Secretary of State this morning we knew had expressed the hope that some kind of decision would be arrived at next summer.

The Honourable Sir Brojendra Mitter: Would a further appellate court make it speedier?

Mr. B. E. Puri: This is the practical method of disposing of infringement against the rights of a community on the criminal side speedily. This is the practical way in which criminal cases are speedily decided, whatever may be the definition of it on paper according to the lights of the Honourable the Law Member. His next point was that we were really attempting to abolish with one stroke the existing Privy Council and we were trying to substitute for it a mock Privy Council. In the first place let me remind him that there is absolutely no attempt on the part of anybody on this side of the House to urge for a single moment the abolition of such an august body as the Privy Council. The Privy Council is justly regarded as a tribunal of great integrity, the highest learning and wisdom which has placed on record the most momentous decisions on most intricate questions. The Resolution itself sufficiently safeguards that. As a matter of fact it is open that in the present constitution, which is now under discussion before the Round Table Conference, they may follow the same lines on which the constitution has been granted to South Africa. Or they may choose in the alternative the constitution which has been granted to Australia. Now, Sir, in Australia and Canada, although in the first instance locally there is an appeal provided from the decision of the High Court and every party is entitled to seek his final right of appeal locally in the Supreme Court, nonetheless he is not debarred, if he so chooses, from going straight to the Privy Council instead of filing his appeal in the local Supreme Court. It is open to the Round Table Conference in their constitution to lay down that the constitution in India with regard to the Supreme Court should follow the same line and course as is given and granted in the constitutions of Canada and Australia.

Now, Sir, with regard to the personnel, I think it was a most ungenerous observation on the part of the Honourable the Law Member to say that it would be a mock tribunal. May I know what justification he has for saying that about any tribunal, and a tribunal, mind you, of the highest character, which tribunal is to safeguard and uphold the future constitution of this country, and which court, I may incidentally remind him, is going to be created by the constitution itself? If that is his view, and if that is his opinion with regard to the qualifications of people who have to constitute that court, all I can say is that he has got a very very poor idea about his own countrymen. Now, Sir, if that is a good argument, then I think the sooner you abolish the High Courts the better it will be; because after all for some time to come at least, perhaps for all time to come, we shall have to draw upon the existing personnel of the High Courts in order to find our Judges for the Supreme Court. And if the Supreme Court composed of these Judges is to be looked upon as a mockery, then I submit your High Courts will be occupying no better place.

With regard to the favourite argument which was adopted by Mr. DeSouza and also by the Honourable the Home Member, that our proper course is to concentrate ourselves upon improving the police and improving the Magistracy and improving the Sessions Courts rather than provide

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another court of appeal, I will ask the Honourable the Home Member in all humility, does it lie in his mouth to say that we should attempt to improve the police and the Magistracy?

The Honourable Sir James Crerar: Sir, if I may interrupt the Honourable and learned gentleman, my argument was not that we should concentrate upon improving the police forces, but that he himself was adopting a very unconvincing and a very unwarranted argument when he based his case for a Supreme Court of criminal appeal on strictures passed upon the police and upon the judiciary.

Mr. B. R. Puri: Sir, I am not convinced in spite of his championing the cause of the police. But what I was going to urge was this, that it does not lie in the mouth of a responsible Member of Government to tell us that we should concentrate upon reforming the police, be it from the Honourable the Law Member or be it from Dr. DeSouza. None the less it has been one of the principal arguments which has been addressed to us that the creation of another court of appeal would be no cure for the defective system, whether it be that of the police or of the Magistracy, which is already in vogue. That was the argument which was put forward seriously, and I propose to deal with that proposition. My submission is this, that it does not lie in the mouth of the responsible Members of Government to tell us that we should try to improve the police and other departments of Government when they have not got the patience to listen to just and legitimate criticisms against that body of public servants. My Honourable friend the Home Member was at pains to get up twice in order to champion the cause of and to protect the police. But I have not maligned the police. All that I said was that we have not got an ideal police in this country, and that the police in England was far more conscientious, far more competent, than the police in this country. Those were my words. The Honourable the Home Member in his own mind has tried to magnify what I stated and has been feeling highly uncomfortable and stood up time after time to try to protect that, according to him, much maligned body of public servants, whereas as a matter of fact I had said nothing of the kind. And mind you, Sir, I am not afraid to say that I know as much as anybody else does with regard to the doings of the police, but I refrain for certain reasons. If it should be necessary, I could place before the House instances which have only recently happened, instances where people have been challanned and sent up, the committing Magistrate heard the evidence and committed the accused to session, and the Sessions Judge convicted him; and in the meantime a parallel investigation is proceeding in the neighbouring district and the same dacoity which is the subject-matter in which the sentence of death had been passed is investigated and traced to certain other culprits, and they challanned those people with the result that Government did not know what position to take up in the High Court when the convicted persons actually preferred their appeals. This incident happened only two weeks ago in the Lahore High Court, and if the Home Member desires I can give him the number and references so that he can send for the records. But I am not here to multiply instances. All that I stated and, all that I shall with all respect and without fear of contradiction always state, is that we have not got an ideal police in this country, and further, when you compare them with the police in England, those people are far more competent and far more honest than they are here.

With regard to the Magistracy I have been accused of maligning the Magistrates. Sir, I wish again to remind the Honourable the Home Member that all I stated was that the Magistrates were helpless in this matter, that they were mere machines, that they were required to do only mechanical work, that they were not allowed to bring their minds to bear upon those points which were brought in evidence before them and that they play merely the role of post offices who merely send the cases up to the Sessions Court for final decision. That is all that I stated. (*A Voice: "Question."*) Somebody in that corner says "Question". This "Question" I have heard before, and let me tell my Honourable friend, whoever he is that challenges the accuracy of this statement, that I can quote a number of cases in which the Magistrates have taken upon themselves the duty and the responsibility of discharging an accused person, and at once a revision is filed and these people are committed to the Sessions straightaway; and it has been held time and again that it is not for the committing Magistrate to decide whether it is a case in which the accused person will be discharged or not, but all that he has got to see is whether the case is good enough to be tried in the sessions. He is not to give any decision with regard to the matter.

With regard to the Sessions Courts, if the Honourable the Home Member will kindly try to refresh his memory, all that I said was that I have got no complaint or grievance against the Sessions Courts, but what I submitted was that the atmosphere of the Sessions Court with that beautiful institution of yours which goes by the name of assessors was not a genial atmosphere in which the questions of life and death of the people should be determined. And compare that with the corresponding trial which takes place in England. Here in this country there are all sorts of judicial officers presiding in the Courts of Session. I have known cases where judicial officers with an experience of sometimes not more than three or four years are pitchforked into the position of Sessions Judge and called upon to try death sentence cases. Any number of cases I can cite. Compare this with the atmosphere which prevails when you come to deal with an Englishman's life there in England; a High Court Judge presides at Old Bailey to try cases where a death sentence is involved and from his decision there is an appeal to the Court of Appeal. Give me that corresponding provision here. Let High Court Judges here preside in all Sessions cases. I will not worry you with even a second appeal. That is the position I am claiming. But when you give me experienced officers of three or four years' standing,—perfectly honest—they try to do their duty to the best of their lights—but you give me this atmosphere with all these uneducated half-naked assessors sitting there (*Laughter*)—on one occasion I remember a Sessions Judge, looking at a man, asked him, "Are you aware of and do you realise your responsibility?" and he turned round with the answer, "Sir, I am a plain man; I am an honest man. I do not go by what the lawyers say and I do not go by what the Judges say. I look at the man in the dock and I say to myself, 'Well, this man must have done something; otherwise he would not be here and I will bring in my verdict accordingly.'" It is with that class of persons that we have to deal; and yet we are denied a right of appeal in a case in which the lives of people are involved. I submit that the least that is due is to give us the right. The strongest point that I would urge for the consideration of the House is to be consistent: deny all appeals also on the civil side; but when you allow

[Mr. B. R. Puri.]

appeals against decisions and judgments of High Court Judges in civil cases, when you permit appeals to be preferred and filed in the Privy Council, how can you consistently and fairly deny the same right where the people's lives and liberties are involved in criminal cases? (Applause.)

Mr. President: The question is:

"That this Assembly recommends to the Governor General in Council to take early steps to secure that a Supreme Court is established in India with power:

- (a) to interpret and uphold the constitution;
- (b) to act as a court of final criminal appeal against all sentences of death;
- (c) to act as a revising court in specified serious cases;
- (d) to hear civil appeals now heard by His Majesty's Privy Council; and
- (e) generally to carry out the work at present entrusted to His Majesty's Privy Council;

provided that such court shall not affect His Majesty's prerogative safeguarded in the constitutions of Canada, Australia and South Africa."

The Assembly divided:

AYES—34.

Ahmed, Mr. K.
 Azhar Ali, Mr. Muhammad.
 Bhuput Sing, Mr.
 Chinoy, Mr. Rahimtoola M.
 Das, Mr. A.
 Das, Mr. B.
 Fazal Haq Piracha, Shaikh.
 Gour, Sir Hari Singh.
 Gunjal, Mr. N. R.
 Harbans Singh Brar, Sirdar.
 Hoon, Mr. A.
 Ismail Ali Khan, Kunwar Hajee.
 Isra, Chaudhri.
 Jadhav, Mr. B. V.
 Jog, Mr. S. G.
 Joshi, Mr. N. M.
 Lalchand Navalrai, Mr.

Liladhar Chaudhury, Seth.
 Misra, Mr. B. N.
 Pandit, Rao Bahadur S. R.
 Parma Nand, Bhai.
 Puri, Mr. B. R.
 Puri, Mr. Goswami M. R.
 Raghbir Singh, Kunwar.
 Rajah, Rao Bahadur M. C.
 Ranga Iyer, Mr. C. S.
 Rastogi, Mr. Badri Lal.
 Reddi, Mr. T. N. Ramakrishna.
 Sadiq Hasan, Shaikh.
 Sarada, Diwan Bahadur Harbilas.
 Sukhraj Rai, Rai Bahadur.
 Uppi Saheb Bahadur, Mr.
 Wilayatullah Khan Bahadur H. M.
 Ziauddin Ahmad, Dr.

NOES—17.

Abdul Matin Chaudhury, Mr.
 Biswas, Mr. C. C.
 Cocke, Sir Hugh.
 DeSouza, Dr. F. X.
 Fox, Mr. H. B.
 Gidney, Lieut.-Colonel Sir Henry.
 Heathcote, Mr. I. V.
 Maswood Ahmad, Mr. M.
 Moore, Mr. Arthur.

Morgan, Mr. G.
 Scott, Mr. J. Ramsay.
 Sen, Mr. S. C.
 Shafee Daoodi, Maulvi Muhammad
 Studd, Mr. E.
 Sykes, Mr. E. F.
 Tait, Mr. John.
 Wood, Sir Edgar.

The motion was adopted.

Mr. President: I should like to ask Honourable Members whether they wish to take up the next Resolution at this hour or whether they wish to adjourn. (*Several Honourable Members:* "Adjourn: Adjourn.")

Very well, I take it that the House wishes to adjourn.

The Assembly then adjourned till Eleven of the Clock on Friday, the 12th February, 1932.