

6th February 1936

THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)

Volume I, 1936

(3rd February to 14th February, 1936)

THIRD SESSION
OF THE
FIFTH LEGISLATIVE ASSEMBLY,
1936



NEW DELHI
GOVERNMENT OF INDIA PRESS
1936.

Legislative Assembly.

President :

THE HONOURABLE SIR ABDUR RAHIM, K.C.S.I., KT.

Deputy President :

MR. AKHIL CHANDRA DATTA, M.L.A.

Panel of Chairmen :

PANDIT GOVIND BALLABH PANT, M.L.A.

SIR COWASJI JEHangIR, BART., K.C.I.E., O.B.E., M.L.A.

SIR LESLIE HUDSON, KT., M.L.A.

SIR MUHAMMAD YAMIN KHAN, KT., C.I.E., M.L.A.

Secretary :

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

Assistant of the Secretary :

RAI BAHADUR D. DUTT.

Marshal :

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

Committee on Petitions :

MR. AKHIL CHANDRA DUTTA, M.L.A., *Chairman.*

SIR LESLIE HUDSON, KT., M.L.A.

MR. B. DAS, M.L.A.

DR. ZIAUDDIN AHMAD, C.I.E., M.L.A.

MR. M. S. ANFY, M.L.A.

CONTENTS.

VOLUME I.—3rd February to 14th February, 1936.

	PAGES.		PAGE.
MONDAY, 3RD FEBRUARY, 1936—		TUESDAY, 4TH FEBRUARY, 1936—contd	
Members Sworn	1—2	Resolution re State Control of the Bengal and North Western Railway and the Madras and Southern Mahratta Railway—Discussion—not concluded	147—52
Motion re Expression of regret on the death of His Late Majesty King George V, and Congratulations to His Majesty King Edward VIII upon His accession	2—8	WEDNESDAY, 5TH FEBRUARY, 1936—	
TUESDAY, 4TH FEBRUARY, 1936—		Questions and Answers	150—97
Member Sworn	9	Motions for Adjournment re—	
Questions and Answers	9—45	Condition of the Handloom Weavers of Salem in the Madras Presidency—Not moved	197,199
Short Notice Question and Answer	45—46	Interference by Local Governments with the Congress Golden Jubilee celebrations—Disallowed by the Governor General	197—98
Unstarred Questions and Answers	46—107	Hunger-strike by Jogeeah Chandra Chatterji, a Kakori conspiracy case prisoner—Disallowed by the Governor General	198
Statements laid on the Table	107—19	Compulsory observance of <i>hartal</i> in New Delhi on the 28th January, 1936—Disallowed by the President	198—99
Deaths of Mr. Deep Narayan Singh, Khan Bahadur Alimuzzaman Chaudhuri and Mr. Kamini Kumar Chanda	119—21	Government of India's views on the question of excluded and partially excluded areas to the Secretary of State—Disallowed by the President	199
Motions for Adjournment re—		Security demanded from <i>Abhyudaya</i> of Allahabad—Disallowed by the Governor General	199-200
Lack of discipline in the King's Regiment stationed at Jubbulpore—Disallowed by the Governor General	121—22	Message from H. E. the Governor General	200
Rioting of the soldiers of the King's Regiment stationed at Jubbulpore—Barred	122	The Parsi Marriage and Divorce Bill.—Report of the Joint Committee laid on the Table	200
Extermment orders on certain Indian shop-owners and tradesmen in Iraq—Withdrawn	122—24, 152—58		
Panel of Chairmen	124		
Committee on Petitions	124		
Election of a Member to the Select Committee on the Amendment of Standing Orders	124—25		
Governor General's assent to Bills	125		
Resolution re Appointment of a Joint Standing Army Committee—Adopted	125—47		

	PAGE.
WEDNESDAY, 5TH FEBRUARY, 1936—contd.	
Agreement between the Secretary of State for India in Council acting by and through the Governor of the Punjab in Council and the Reserve Bank of India	200—02
Election of a Member to the Standing Committee for Roads	202
Election of Members to the Standing Committee for the Department of Industries and Labour	202-03
Election of Members to the Standing Committee on Emigration	203
The Italian Loans and Credits Prohibition Bill—Introduced	203
The Payment of Wages Bill—Discussion on the consideration of clauses not concluded	204—47
THURSDAY, 6TH FEBRUARY, 1936—	
Questions and Answers	249—89
Short Notice Questions and Answers	289—93
Motions for Adjournment re—	
Contract for the Howrah Bridge—Ruled out of order	293—95
Demand for security from the <i>Abhyudaya</i> for publication in verbatim of a speech delivered in the Legislative Assembly—Ruled out of order	295—98
Control of the administrative chaos in the Punjab—Ruled out of orders.	299
Election of a Member to the Select Committee on the Amendment of Standing Orders	299
The Indian Criminal Law Amendment (Repeal) Bill—Discussion on the consideration of clauses not concluded	299—335
FRIDAY, 7TH FEBRUARY, 1936—	
Questions and Answers	337—79
Short Notice Question and Answer	379

	PAGE.
FRIDAY, 7TH FEBRUARY, 1936—contd.	
Discussion of the Report of the Public Accounts Committee	379
The Payment of Wages Bill—Discussion on the consideration of clauses not concluded	379—416
Statement of Business	416
MONDAY, 10TH FEBRUARY, 1936—	
Members Sworn	417
Questions and Answers	417—62
Short Notice Question and Answer	462—65
Motions for Adjournment re—	
Misuse and misapplication of Legislative Rules in disallowing the Adjournment Motion on the Renda incident—Ruled out of order	465—67
Direct sea mail service between Madras and Rangoon—Ruled out of order	467—70
Loss of Indian Life and property in Zanzibar—Disallowed by the President	470—71
Demand of security from the <i>Abhyudaya</i> of Allahabad—Ruling to be given afterwards	471—512
Election of Members to the Standing Committee on Roads, the Standing Committee for the Department of Industries and Labour and the Standing Committee on Emigration	512
Election of Members to the Standing Committee for the Department of Education, Health and Lands	512—12
The Cinematograph (Amendment) Bill—Appointment of Mr. S. K. Das Gupta to the Select Committee	512

	PAGE.		PAGE.
MONDAY, 10TH FEBRUARY, 1936—contd.		WEDNESDAY, 12TH FEBRUARY, 1936—contd.	
The Code of Civil Procedure (Amendment) Bill (Amendment of section 51)—Appointment of Khan Bahadur Shaikh Khurshaid Muhammad to the Select Committee	513—14	Statements laid on the Table	657—60
The Code of Civil Procedure (Amendment) Bill (Amendment of section 60)—Appointment of Khan Bahadur Shaikh Khurshaid Muhammad to the Select Committee	514	Motion for Adjournment <i>re</i> Contributions given to the Y. M. C. A. in India—Disallowed by the President	660—61
The Code of Civil Procedure (Amendment) Bill (Amendment of section 51)—Appointment of the Honourable Sir Frank Noyce to the Select-Committee	514	The Arbitration (Protocol and Convention) Bill—Introduced	661
The Code of Civil Procedure (Amendment) Bill (Amendment of section 60)—Appointment of the Honourable Sir Frank Noyce to the Select Committee	515	The Payment of Wages Bill—Discussion on the motion to pass, as amended, not concluded	661—705 705—06
The Payment of Wages Bill Discussion on the consideration of clauses not concluded	515—17		
Statement of Business	518	THURSDAY, 13TH FEBRUARY, 1936—	
TUESDAY, 11TH FEBRUARY, 1936—		Member Sworn	707
Questions and Answers	519—64	Questions and Answers	707—58
Short Notice Question and Answer	564—67	Short Notice Questions and Answers	759—63
Resolution <i>re</i> State control of the Bengal and North Western Railway and the Madras and Southern Mahratta Railway—Adopted	567—600	Motion for adjournment <i>re</i> Prohibition of the appointment of Indians in the Cypher Bureau of the Foreign and Political Department—Disallowed by the President	763—67
Resolution <i>re</i> Extension of the same level of administration to the people of the excluded and partially excluded areas—Discussion not concluded	600—14	Election of Members to the Standing Committee for the Department of Education, Health and Lands	767
WEDNESDAY, 12TH FEBRUARY, 1936—		The Indian Criminal Law Amendment (Repeal) Bill—Motion to consider clause 2 negatived.	768—87
Member Sworn	615	The Code of Criminal Procedure (Amendment) Bill (Amendment of section 406)—Passed	787—93
Questions and Answers	615—57	The Code of Criminal Procedure (Amendment) Bill (Amendment of sections 30, 34, 34A and 35)—Discussion on the motion to circulate not concluded	793—805
		FRIDAY, 14TH FEBRUARY, 1936—	
		Questions and Answers	907—60
		The Payment of Wages Bill—Passed as amended	860—71
		The Italian Loans and Credits Prohibition Bill—Discussion on the consideration of clauses not concluded	872—907
		Statement of Business	907

LEGISLATIVE ASSEMBLY.

Thursday, 6th February, 1936.

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

QUESTIONS AND ANSWERS.

ALLEGED ASSAULT OF A STAMP VENDOR BY BRITISH SOLDIERS AT AMBALA.

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

- (a) whether their attention has been drawn to the accompanying news item† from Ambala published in the *National Call* of the 3rd September, making allegations against British soldiers at Ambala of having assaulted a stamp vendor;
- (b) whether they have made any enquiries in the matter, and what the result of such enquiry is;
- (c) whether any action has been taken against these soldiers;
- (d) whether the Government have noted a recent tendency on the part of the British soldiers to get out of hand, and misbehave; and
- (e) whether Government propose to take any action thereon, and if not, why not?

Mr. G. R. F. Tottenham: (a) Yes.

(b) and (c). Yes. Two soldiers were tried by court-martial and sentenced to fourteen days' detention.

(d) There has been one case recently which has attracted public attention, but there has been no general tendency whatever of the kind referred to by the Honourable Member.

(e) Does not arise.

Mr. S. Satyamurti: With reference to the answer to clause (d), may I know whether, after the receipt of this question or about that time, the Army Secretary satisfied himself that on the whole British soldiers are behaving as they are expected to do?

Mr. G. R. F. Tottenham: It is not for the Army Secretary to satisfy himself; it is for the Commander-in-Chief to satisfy himself. The Commander-in-Chief is responsible for the discipline of the army, and I may say that the Commander-in-Chief has satisfied himself on that point. We maintain the most careful statistics of cases of lack of discipline in the British army, and those statistics show a distinct improvement during the last 10 or 12 years, apart from the one very bad case at Benda last year.

†Sent to the Department concerned.

Mr. S. Satyamurti: My Honourable friend referred to some instructions on this matter the other day. May I know if those instructions are confidential, or if they will be placed on the table of the House?

Mr. G. R. F. Tottenham: The general instructions are contained in the Army Act and Regulations. These are not confidential documents and there are copies in the Library of the House.

RE-BUILDING OF QUETTA.

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

- (a) at what stage the question of reconstructing Quetta now stands;
- (b) whether they will consult the Legislature before making up their mind on this matter; and
- (c) if not, why not?

Sir Aubrey Metcalfe: (a) The Honourable Member's attention is invited to the Government of India's Press Communiqué, dated the 23rd December, 1935, a copy of which I will lay on the table.

(b) and (c). It was impracticable to delay a decision in this matter until the next meeting of the Legislature but as will be seen from the Communiqué, it issued after consultation with the non-official Committee which was set up in pursuance of the undertaking given in the debate on Quetta in the Assembly on the 19th September, 1935, and which contains four Members of the Legislature.

Mr. S. Satyamurti: May I know if it is a fact that a non-Indian engineering expert has been imported to advise Government on the re-building of Quetta, and, if so, the reasons why no Indian was appointed?

Sir Aubrey Metcalfe: I think a separate question has been put down on that subject. In any case, I do not think it arises directly out of this question. The answer will be supplied in due course to that question.

Mr. S. Satyamurti: May I know the reasons for the decision to rebuild Quetta on the same site, and why Government rejected alternative sites?

Sir Aubrey Metcalfe: If the Honourable Member would be good enough to read the very lengthy communiqué which was issued on the subject, he would find the reasons there stated.

Mr. S. Satyamurti: Have Government considered the possibility of earthquakes again there?

Sir Aubrey Metcalfe: There is always the possibility of earthquakes anywhere. Government fully realise that.

Mr. S. Satyamurti: Do Government realise that it is in a region which is particularly susceptible to earthquakes?

Sir Aubrey Metcalfe: It is perhaps more liable than some other places, but susceptibility is a different matter.

Dr. Ziauddin Ahmad: Is it not a fact that the place where the earthquake has occurred recently is less liable to repetition of earthquakes than any other place?

Sir Aubrey Metcalfe: That again is largely a matter of opinion on which I am not able to state any view.

Mr. Lalchand Navalrai: May I know if there is no other place on which new Quetta could be built?

Sir Aubrey Metcalfe: There are lots of other places, but anybody who reads this communiqué will know exactly what Government's position is, what the decision is and why that decision was taken. And I submit that Honourable Members might read that communiqué instead of asking me to expound bits of it. I am now laying on the table a copy of the communiqué in case they have not read it in the papers.

—
Communique.

The following statement of the views of the Government of India regarding the future of Quetta is issued after consultation with the non-official Committee the constitution of which was announced by Government in their Press Communique of the 14th October, 1935.

There are two aspects of the very difficult problem that has been created by the disastrous Earthquake at Quetta. The first is the official aspect. Do the requirements of Government, military and civil, render it necessary to retain in Quetta (or in any other place in Baluchistan) the same, or approximately the same, official organisation as existed before the Earthquake?

The second, and perhaps more difficult, is the non-official aspect. Is it necessary or desirable to impose any restrictions on the return to Quetta (or other place in Baluchistan) of a civil population comparable in size to that which suffered so severely at the end of last May?

2. The answer to the second question depends largely on the answer to the first; and therefore it was the obvious duty of the Government to make up their minds first of all about their own requirements. They have now completed this task, after consulting all the experts and all the *official* interests concerned, and their broad conclusion is that *official* Quetta should be rebuilt, so far as possible, on the existing site, and that earthquake-resisting buildings should be provided for all permanent employees of Government who may be required to live and work there in future.

3. The steps that have led to this conclusion may be described as follows:—

In the first place, Quetta is one of the two great spear-heads of the defence of India. The garrison there is in the best position to act in defence of Western India from external aggression and to control the tribes and maintain peace and order in the Southern portion of the 600 miles of the North-Western Frontier of India. It has the further advantage that its climate permits troops to remain there and conduct their training throughout the year; and incidentally it possesses the only practicable site for an Aerodrome anywhere on the line from Sibi to the frontier. Military stores of all kinds have to be held in bulk in Quetta owing to the liability of the railway further back to interruption by flood or earthquake.

It is therefore necessary for the military garrison to remain in Quetta in much the same strength as at present.

4. In the second place, it follows that, if the troops must remain in Quetta, it is highly desirable, if not essential, that the headquarters of the civil administration should be located in the same place.

5. Thirdly, it is obvious, provided that reasonable security can be ensured, that there are great practical advantages in having an existing framework, however, distorted it may be, on which to base reconstruction. An entirely new water-supply system, for instance, even if it were possible, would add very greatly to the cost; and any new alignment of the Railway or alteration in the position of the station at Quetta would be extremely expensive in any case, and even more so owing to the great engineering difficulties involved.

6. There remains, therefore, the safety aspect to be considered; for whatever may be the strategic importance of Quetta or its advantages from other points of view, Government could never deliberately ask their servants to return to it, if they were to be exposed to the risk of a repetition of the recent disaster. This aspect of the matter has accordingly been the subject of the most anxious and careful examination by experts.

7. The view of the Director of the Geological Survey of India, reinforced by that of experienced engineers, is that earthquake-proof construction will be a necessary precaution anywhere in Baluchistan; and that, if this precaution is adopted, reconstruction in Quetta itself is likely to be just as safe as, if not safer than, building anywhere else in Baluchistan. The whole of Baluchistan must be regarded as an earthquake area in which further shocks may be expected to occur from time to time but earthquake shocks in Baluchistan are not due to volcanic activity and therefore they are unlikely to recur in the same regions. They are the result of a condition of special strain in the rock formation of the area; the sudden movement of the rocks under enormous pressure causes the earthquake; but the movement itself relieves the stresses to which they have been subjected in the past and therefore reduces the likelihood of future earthquakes in the same place. Past experience shows that the focus of earthquake activity in Baluchistan has gradually been moving in a north-westerly direction and the probability therefore is that, if further serious shocks do occur, their epicentres will not be on the same line as the earthquake of May 31st.

The numerous tremors and after-shocks that have occurred in Quetta since May 31st are the normal accompaniment of every severe earthquake; and so far from their being regarded as the precursors of another severe shock; there is good reason to believe that Quetta is a safer area to build on than any area to the north or north-west.

8. Apart from this generalisation as to the probabilities of the future, regarding which of course there can be no absolute certainty, there are the following most important facts:

- (1) The intensity of the earthquake in Quetta over a limited area was extremely high—higher than that of the Bihar earthquake—and yet such earthquake-proof buildings as there were in that area withstood the shock, while even ordinary buildings solidly constructed with good mortar were not seriously damaged. It was the extremely poor quality of the building in Quetta City that contributed more than anything else to the magnitude of the disaster.
- (2) There is no place in Baluchistan within a radius of 150 miles from Mastung where it would be legitimate to build in future without taking special precautions against earthquakes, and the standard of these precautions would probably have to be the same everywhere in this area.
- (3) The extra cost of earthquake-proof construction, as compared with a normal standard of good building, is not great for small houses of not more than a single storey. It is in the building of a second storey, and, even more, of a third, that heavy additional expenditure becomes necessary.

9. The only other point that perhaps deserves mention is the fact that there are certain areas in Quetta which are liable to malaria and also certain areas which would probably feel the effects of any future earthquakes rather more severely than the rest. These areas roughly coincide, and are situated in the low-lying and water-bearing tract which runs along the western side of the city—where the civil lines are now located—through the railway area and thence northwards past the R. A. F. lines. Non-water-bearing soil, such as the rising ground towards the Staff College, transmits shocks with less severity. Even in these areas, however, buildings of a proper type of construction would be safe and, if they must be built upon, they can be protected by special anti-malarial measures. On the other hand, according to a recent expert investigation of the malarial problem in Quetta, the site of the old city itself is as healthy as, and possibly healthier than, most others in the surrounding valley, and much can be done to make it healthier still by utilising the debris on the site to fill up depressions which now collect water and provide breeding places for mosquitoes.

10. The actual requirements of the civil administration in Quetta, e.g., in the matter of police, hospitals, schools, etc.—will of course depend largely on the extent to which a city of the pre-earthquake dimensions springs up again in the vicinity of the cantonment. It is necessary therefore to turn to the second broad aspect of the whole problem—the non-official aspect or, in other words, the rebuilding of the city:

11. The two possible alternatives may be set side by side as follows :

I

A cantonment containing all the essentials for the civil and military sides of the Government with a bazaar and shopping centre commensurate with official needs,

and

A city at some distance from the cantonment, on an entirely new site, to serve the needs of trade and a health resort in the hot weather.

II

A military cantonment, as at present, with some small regimental bazaars and its own municipal services,

and

A Municipality adjoining the cantonment, containing Civil Lines and a city, with a separate set of municipal services and shops, serving both the needs of the official population (civil and military) and also the requirements of trade and a health resort during the hot weather.

12. From the purely official point of view, the first alternative is to be preferred. The presence of a large city in the close vicinity of a cantonment is never desirable. It was undoubtedly the presence of the troops that led to the growth of the city that has just been destroyed. It was not necessarily for trade purposes before the cantonment was built, and even though it did become a centre of traffic for certain forms of merchandise between Afghanistan and India before the earthquake, this traffic must necessarily be diverted into other channels for the next few years and may be slow to return. On the other hand, memories are short. The recent catastrophe may produce a deterrent effect for some time, but a period of immunity from shocks will soon lead to forgetfulness of the past and the natural tendency will be for traders and others to settle in the vicinity of the troops and gradually rebuild a city of, or approaching, the old dimensions. Nor is it easy to see how any positive check can be applied. An alternative site, whatever its natural advantages, would never become popular if it was far removed from the protection that the troops afford and the money that the troops have to spend. Moreover, it is an undoubted fact that, without a city of the pre-earthquake character, the cantonment would have to be provided with a Sadar bazaar and a shopping centre of a very considerable size, and experience in other places has shown that the methods of cantonment administration are not particularly well adapted to the running of extensive bazaar areas.

13. Then again there is the question of private rights in the land that now lies buried under the ruins of Quetta City. Some of this land may never be claimed; the owners of other portions of it may never wish to return; but if the old City is to be replanned on broader and safer lines, some dislocation of existing rights will be inevitable. The settlement of these and similar problems will be difficult enough, but a decision to prohibit rebuilding on the existing site would involve the extinction of private rights altogether and would give rise to an even more serious set of problems. Moreover, there is no other site on which the city could be rebuilt in the immediate vicinity of the cantonment and within reasonable distance of the Railway station; nor, even if such a site were available, would the cost of building be lower or the risk of inhabiting it any less.

14. On the other hand, the salvage operations now in progress will eventually clear the existing site, leaving a framework of roads, drains and electric and water mains on which the plan of a new and better city can be laid out. The width of many roads will have to be increased; stringent building regulations will have to be laid down and rigorously enforced; and, if the population ever reaches pre-earthquake dimensions, a considerable expansion of the superficial area will become necessary. With these developments in view, Government have engaged the services of a town-planner to secure the lay-out of the new city on modern scientific lines and with, so far as possible, protection against future disaster, disease and epidemic. To provide for the anticipated expansion, they have under consideration the acquisition of certain land to the south and south-east of the present city and are issuing at once a

notification under Section 4 of the Land Acquisition Act in respect of it. For the new lay-out, certain land within the existing municipal area east of the Lytton Road will also be required, e.g., for the widening of roads. The particular portions required cannot be known until the site has been cleared and a decision arrived at on the expert advice regarding the new lay-out. It is possible that as a result of Government's own operations on site clearance or of speculative sales effected before Government's requirements in this area are finally known, the price of land might be unduly inflated. To obviate this possibility, while having no intention of acquiring the whole municipal area east of the Lytton Road, Government have decided to issue a notification under Section 4 of the Land Acquisition Act in respect of it also. It is doubtful if salvage and site clearance operations in the city can be completed before late in the summer of 1936 and bearing in mind cold weather conditions in Quetta it appears most unlikely that non-official reconstruction on any large scale could commence before April 1937.

15. These facts and difficulties must all be faced; but the conclusion to which they point and which the Government themselves feel compelled to adopt is that, if the civil population desire to return to the vicinity of Quetta, they must be prepared to reoccupy the site of the old city and to accept, as a condition of their return and in their own interests, the need for a better, and therefore a more expensive, standard of building than was permitted in the past.

16. In order to mitigate the hardship caused to property owners in Quetta City by the earthquake, the Government have decided to clear and level the old site at Government expense. They have also adopted the following measures to secure the expedition of salvage and site clearance. A senior officer of the Political Department has been recalled from leave and posted to Quetta with instructions to organise these operations in such a manner as he considers necessary for more rapid and efficient progress. In consultation with the non-official Committee the constitution of which was announced by Government in their press communique of the 14th October 1935, the strength of the labour forces has already been increased by half, and the number of officers from two to seven. By the middle of January it is anticipated that two full battalions will be employed with eight officers in all. The number of assistants to the Claims Commissioner was raised some time ago from two to three and as soon as the increase in the strength of the labour force renders it necessary two more will be appointed. In certain limited areas of the city where conditions permit, facilities have been afforded, as an experiment, to private individuals under the supervision of local gentlemen, to salvage their possessions. This is, however, impracticable in the more congested wards where in the interest of expedition and of the protection of property rigid official control is required. Further the structural material of collapsed buildings cannot be extracted or identified without causing the progress of all salvage and clearance operations to be seriously retarded. Delivery of such material to individual owners is therefore impracticable and much of it would be valueless because its use will not be permitted for purposes of reconstruction. In view of these considerations and also of the fact that Government are undertaking an expenditure on site clearance which would otherwise fall on property owners, they have decided to take all such material into their custody and to dispose of it at their discretion. In the event of its sale the proceeds will be credited to His Excellency the Viceroy's Relief Fund and will be earmarked, so far as may prove practicable, for the relief of owners of real property in Quetta City who suffered loss in the earthquake.

WITHDRAWAL OF INDIA FROM THE MEMBERSHIP OF THE LEAGUE OF NATIONS.

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

- (a) whether their attention has been drawn to the letter of Mr. Subhash Chandra Bose, published in the *Hindustan Times*, regarding 'India and the League of Nations';
- (b) whether they have considered all the facts and arguments stated in that letter; and
- (c) whether they propose to take steps to withdraw from the League; and if not, why not?

The Honourable Sir Nripendra Sircar: (a) and (b). Yes. But I must not be understood to imply that Mr. Bose's statements of facts are in all respects correct.

(c) No. Government's reasons for declining to contemplate the withdrawal of India from the League have been stated in reply to more than one previous question and I would refer the Honourable Member in particular to my reply to part (e) of question No. 199 on the 23rd July, 1934.

Mr. S. Satyamurti: May I know if Government are satisfied that India has any effective voice in the League of Nations, and that is the reason why they want to continue there?

The Honourable Sir Nripendra Sircar: The answer surely is, yes; but I explained it in greater length in giving the answer to question No. 199.

Mr. S. Satyamurti: May I know if India has only to give an additional vote to Great Britain, and has no separate *locus standi*?

The Honourable Sir Nripendra Sircar: When I answered the first part in the affirmative, it follows that the second part should be answered in the negative.

Mr. S. Satyamurti: May I know if the Government of India were consulted in the recent discussions and decisions in the League of Nations about the Italo-Abyssinian conflict?

The Honourable Sir Nripendra Sircar: I shall require notice of that question.

SITUATION ON THE NORTH-WEST FRONTIER.

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

- (a) whether their attention has been drawn to the accompanying extract† from the *Statesman* about the situation on the North-West Frontier;
- (b) whether they propose to take any action in respect of the situation on the Frontier mentioned therein; and
- (c) if not, why not?

Sir Aubrey Metcalfe: (a) Yes.

(b) Both in the Mohmand country and the Hazara border such action as the situation demanded has been taken, and the tribes have accepted Government terms.

(c) Does not arise.

Mr. S. Satyamurti: May I know if the present position on the frontier is such as to give satisfaction to my Honourable friend and to his Department?

Sir Aubrey Metcalfe: Yes, Sir.

†Sent to the Department concerned.

LEVY OF EQUAL DUTIES ON BRITISH AND OTHER GOODS.

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

- (a) whether their attention has been drawn to an article entitled 'Rejection by Implication' published in the *Hindustan Times*;
- (b) why they have departed from the recommendation of the Tariff Board that equal duties should be levied on all goods whether from the United Kingdom or out of it; and
- (c) whether the object was to give preference to British goods?

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

(b) The Honourable Member's attention is directed to the Statement of Objects and Reasons appended to the Indian Tariff (Textile Protection) Amendment Bill, 1934, and the debates in this House on that measure.

(c) No, Sir.

Mr. S. Satyamurti: What is the present policy of Government, with reference to giving preference to British goods?

The Honourable Sir Muhammad Zafrullah Khan: To carry out the engagements that Government have entered into.

Mr. S. Satyamurti: Apart from that, whenever any new question arises, may I take it that Government will follow the principle that equal duties shall be levied on all goods, whether from the United Kingdom or out of it?

The Honourable Sir Muhammad Zafrullah Khan: I do not know that that was laid down so clearly in the report of the Tariff Board. I believe they did say on page 154:

"If the trade agreement is ratified by the legislature, its application to the tariff scheme proposed by us will be determined on the basis that the specific duties as protective duties will be outside the scope of the agreement, while *ad valorem* duties as revenue duties will be subject to such arrangements as may be made by Government and the legislature in pursuance of the agreement."

Mr. S. Satyamurti: May I know whether Government have any policy, apart from giving such protection to Indian industries as they think ought to be given, whatever the country of origin of the goods may be as against which such protection is given or needed, whether it is Great Britain or other countries?

The Honourable Sir Muhammad Zafrullah Khan: Provided a case for protection is made out under the principles which have been so often explained on the floor of the House, yes.

Mr. S. Satyamurti: May I take it, therefore, that there will be no preference shown to Great Britain, if a clear case is made out that Indian goods want protection just as much from the competition of British goods as from non-British goods?

The Honourable Sir Muhammad Zafrullah Khan: The measure of protection must depend upon the findings arrived at on the materials placed before Government.

Dr. Ziauddin Ahmad: Is it not a fact that the custom is levied according to the Tariff Act and this Legislature alone can change that tariff?

The Honourable Sir Muhammad Zafrullah Khan: Duties can sometimes be imposed by notification also.

Mr. G. Morgan: On a point of order, Sir. In all three of these questions, my Honourable friend simply mentions the paper in which these articles have appeared. Would the Chair direct that the date of the paper be always inserted? In question No. 95, it is done; but, in Nos. 93, 94 and 96, it is not done, and it is impossible to go through the whole file of papers to find out where these articles occurred.

Mr. President (The Honourable Sir Abdur Rahim): It is apparently an omission, and it ought to be rectified.

Mr. S. Satyamurti: I propose to follow the directions laid down yesterday.

PRICES OF PETROL.

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

- (a) whether their attention has been drawn to the article, entitled 'Break the Monopoly' published in the *Indian Express*, dated September 6th, relating to petrol prices;
- (b) whether Government propose to take any steps as suggested in the article; and
- (c) if not, why not?

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

(b) No.

(c) Government have no reason to believe that there is any combination between oil companies to raise the price of petrol in India.

SILVER CRISIS.

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

- (a) whether their attention has been drawn to an article entitled "The Silver Crisis and after" in the *Hindustan Times*;
- (b) whether they propose to take any action in the matter; and
- (c) if not, why not?

The Honourable Sir James Grigg: I would invite the attention of the Honourable Member to the reply given by me in this Session to his starred question No. 31.

Mr. S. Satyamurti: Has the Honourable the Finance Member's attention been drawn to the statement that appeared in this morning's *Hindustan Times* from London?

The Honourable Sir James Grigg: I saw that. The price of silver has been stabilised.

Mr. S. Satyamurti: What will be the reaction of that on the Indian situation?

The Honourable Sir James Grigg: I have not yet considered that.

REPORT OF THE TARIFF BOARD ON THE PROTECTION TO THE PAPER INDUSTRY.

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

- (a) at what stage their consideration of the Report of the Tariff Board in respect of protection to the paper industry stands;
- (b) when they will publish their conclusions thereon; and
- (c) whether they will be placed before the Legislature before Government make up their mind to proceed further?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (b). Presumably the Honourable Member is referring to the Report of the Tariff Board on the Classification of Paper for tariff purposes. Government's conclusions thereon will be published as soon as a decision has been arrived at.

(c) If any changes in the tariff are proposed this House will have an opportunity to discuss them.

SITUATION ON THE NORTH-WEST FRONTIER.

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

- (a) whether their attention has been drawn to the extract† from the *Statesman* enclosed herewith regarding North-West Frontier situation;
- (b) whether they have particularly considered the following remark—
“The net result of all this spirited fun is a little hard to seek”;
and
- (c) whether they will enlighten this House on the position in the Frontier?

Sir Aubrey Metcalfe: (a) Yes.

(b) The comment has been noted and the conclusion of the operations has since provided the journalist with an answer.

(c) The operations referred to in the extract have since come to an end; the road has been prolonged to the heart of Mohmand territory, the tribes concerned have accepted Government's terms, and all troops have returned to their peace stations.

Mr. S. Satyamurti: When were these terms accepted by the tribes?

Sir Aubrey Metcalfe: Does my Honourable friend wish the exact date?

Mr. S. Satyamurti: Approximate.

Sir Aubrey Metcalfe: 15th October, 1935.

†Sent to the Department concerned.

Mr. S. Satyamurti: May I know if since that date, Government are satisfied with the tribes, and that they are getting on well with regard to the terms of that agreement?

Sir Aubrey Metcalfe: I was informed by the Governor when I visited Peshawar a short time ago, that at present everything in the Mohmand country was extremely satisfactory.

Mr. S. Satyamurti: Then, may I know, Sir, why the President's car was shot at when everything was satisfactory?

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

IMPROVEMENT IN THE FINANCES OF RAILWAYS.

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

- (a) whether their attention has been drawn to the leading article in the *Statesman* entitled "Indian Railway Finance";
- (b) whether they propose to take any action in order to improve the same; and
- (c) if not, why not?

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

(b) and (c). I hope to be able to say something on these matters in my speech introducing the Railway Budget on the 17th instant.

Mr. S. Satyamurti: May I know, Sir,—I do not want to anticipate my Honourable friend's Railway Budget speech—whether, in view of the very alarming state of affairs, Government are considering the question of not merely carrying on, but doing something drastic?

The Honourable Sir Muhammad Zafrullah Khan: I do not know whether it is possible for Government to do something drastic.

INDIANS IN FIJI.

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

- (a) whether their attention has been drawn to the statement from Etawah published in the *Hindustan Times* regarding Indians in Fiji;
- (b) whether they have received a copy of the Resolutions passed at the meeting; and
- (c) if they propose to take any action thereon?

Sir Girja Shankar Bajpai: (a) and (b). Yes.

(c) The Government of India have represented to His Majesty's Government that they do not favour the proposal to substitute nomination for election to the Legislative Council.

In regard to the replacement of Municipal Councils by nominated bodies, the attention of the Honourable Member is invited to the reply given by me on the 12th September, 1935, to parts (d)—(g) of starred question No. 296 asked by Mr. Mohan Lal Saksena.

Mr. S. Satyamurti: When did the Government address His Majesty's Government on this matter?

Sir Girja Shankar Bajpai: The first communication was, I think, addressed to His Majesty's Government in October and the second in December, 1935.

Mr. S. Satyamurti: Have they heard in reply from His Majesty's Government?

Sir Girja Shankar Bajpai: No, Sir.

Mr. S. Satyamurti: Do they ever hear in reply from His Majesty's Government at all?

Sir Girja Shankar Bajpai: Oh, indeed, they do, Sir.

Mr. S. Satyamurti: What is the latest position in this matter, Sir?

Sir Girja Shankar Bajpai: The latest position is, as I have already stated, that we have addressed our representation but have had no reply.

Mr. S. Satyamurti: Has any action been taken in Fiji itself, by way of substituting election for nomination?

Sir Girja Shankar Bajpai: No, because, if action had been taken, we would know of it.

PROHIBITION OF MR. SUBHASH CHANDRA BOSE FROM VISITING ENGLAND.

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

- (a) whether it is a fact that Mr. Subhash Chandra Bose is prohibited from visiting England;
- (b) if so, whether the Government of India were consulted in the matter, and what their advice was; and
- (c) whether they propose to take steps to remove the ban on Mr. Subhash Chandra Bose's visit to England?

The Honourable Sir Henry Craik: (a) The position was recently explained in reply to a question in the House of Commons by the Under Secretary of State for India. I lay a copy of the question and of the reply on the table.

(b) and (c). The decision in regard to granting permission to visit England rests with the Secretary of State, and the Government of India were not consulted before the reply to which I have referred in reply to part (a) of the question was given.

QUESTION NO. 5, DATED 9TH DECEMBER 1935.

Mr. Thurtle,—To ask the Under Secretary of State for India, if he can say why Mr. Subhas C. Bose is not permitted to pay a visit to this country.

Answer to Mr. Thurtle's question No. 5, dated 9th December 1935.

The Hon'ble Member is presumably aware of Mr. Subhas Bose's connection with the Bengal Revolutionary Movement which made it necessary to order his detention in India under the Bengal State Prisoners Regulation. The sole reason

for his release from this detention in February, 1933, was to enable him to visit particular countries on the Continent where specialist medical treatment could be obtained. My Noble Friend considers that his presence in this country would be undesirable, and in view of the circumstances of his release is not prepared to authorise passport facilities for a visit to this country unless it can be shown that it is essential for the medical reasons for which the passport was originally granted.

Supplementary questions.

Mr. Thurtle : Will the Hon. Gentleman consider a revision of this ban if Mr. Bose will give an undertaking not to indulge in any political propaganda in this country?

Mr. Butler : I am afraid I can only undertake to reconsider the matter on a medical basis.

Colonel Wedgwood : Is it the fact that Mr. Sarat Bose, the brother, who was interned in Bengal, has been set at liberty and is free to carry on his normal occupation?

Mr. S. Satyamurti: Have the Government of India since been consulted, Sir?

The Honourable Sir Henry Craik: Consulted about what?

Mr. S. Satyamurti: By the Secretary of State on these matters.

The Honourable Sir Henry Craik: No, Sir.

Mr. S. Satyamurti: Do the Government of India propose to address the Secretary of State to remove any restriction in the way of Mr. Subhas Chandra Bose travelling where he likes?

The Honourable Sir Henry Craik: No, Sir.

Mr. S. Satyamurti: Why not, Sir?

The Honourable Sir Henry Craik: The Secretary of State has made up his mind.

Mr. S. Satyamurti: Did he make up his mind without reference to the Government of India at all?

The Honourable Sir Henry Craik: I said that the Government of India were not consulted.

Mr. S. Satyamurti: Are the Government of India satisfied that it is a just decision, and would they not take steps to advise the Secretary of State to remove an injustice?

The Honourable Sir Henry Craik: That is a matter of opinion.

PUNISHMENT OF AN INFORMER BY THE PRESIDENCY MAGISTRATE OF CALCUTTA.

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

- (a) whether their attention has been drawn to the article entitled 'Intolerable' published in the *Hindustan Times* regarding the punishment of an informer by the Presidency Magistrate of Calcutta;

- (b) whether they propose to take steps to abolish the system; and
 (c) if not, why not?

The Honourable Sir Henry Craik: (a) Yes.

(b) No.

(c) Because Government have no reason to believe that investigating police officers do not weigh information carefully before acting on it, and because in dealing with certain kinds of crime, not only in India but in all parts of the world, the so called informer system is essential to successful investigation. In the case to which the writer of the article in the *Hindustan Times* refers, the important point to be noted is that the person who gave the false information was prosecuted and convicted, while the person against whom the information was given was not prosecuted though his house was searched. The writer is wrong in his statement of fact and the inference he suggests are entirely unwarranted by the facts of the case. He bases them on an isolated sentence which is included in the following extract from the judgment of the Chief Presidency Magistrate, Calcutta, who tried the case. This extract reads as follows:

"The learned counsel for the defence merely pleaded for a lenient sentence. He was about to give his reasons for making that submission when the court asked him if it was because the accused was only a hireling in the employ of Ram Prasad Bhakat's brothers. The Counsel replied that this was his sole ground for pleading for a lenient sentence.

While it is clear that the accused is a hireling, who did what he did for the sake of gain, that does not mitigate or minimise the serious nature of his offence. It would be an intolerable state of affairs, if in these times or at any time innocent men are to have revolvers stuck in their houses and information given to the police."

The facts of the case are that the house in which the revolver was found belongs to Ram Prasad Bhakat. Some person or persons in order to get him into trouble employed one Ram Chandra (the man who has been convicted) to plant a revolver in his house and to give information to the police. The Inspector of Police carefully weighed the information and believing it to be true obtained a search warrant from the Chief Presidency Magistrate. The Honourable Member will appreciate, therefore, that the house was searched on the authority of the Chief Presidency Magistrate who, in compliance with the law, must have satisfied himself that there were reasonable grounds for believing the information. It was the police who, by means of careful investigation, subsequently detected that the story told to them was false and consequently the informer was successfully prosecuted. Ram Chandra was not a regular Police informer and in fact was not known to the police before this case.

It is singularly malicious to base on this case, as did the writer of the article in question, the statement that "the police do not take the trouble to scrutinise the evidence before them and proceed on the assumption that their informers are absolutely truthful individuals". On the contrary this enquiry into the true facts of the case fortifies Government in their belief that investigating police officers carefully weigh information before acting on it.

Mr. S. Satyamurti: May I know if there are "regular police informers".

The Honourable Sir Henry Craik: That does not arise out of my answer. This man is not a police informer.

Mr. S. Satyamurti: I submit it does, Sir.

Mr. President (The Honourable Sir Abdur Rahim): That is a general question and cannot be incidentally dealt with in connection with this particular matter.

Mr. S. Satyamurti: He said in the course of his answer that this particular informer was not a "regular police informer".

Mr. President (The Honourable Sir Abdur Rahim): We are not dealing with the question whether there are police informers or not . . .

Mr. S. Satyamurti: Therefore, I want to elucidate that answer.

Mr. President (The Honourable Sir Abdur Rahim): Then the Honourable Member must put down another and a more comprehensive question whether there are police informers or not.

SITUATION ON THE NORTH-WEST FRONTIER.

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

(a) whether their attention has been drawn to the statement published in the *Statesman*, dated Simla, September, 7th, regarding Frontier situation; and

(b) what the meaning of the following sentence is: "The situation on the border is stated to be fully under control"?

Sir Aubrey Metcalfe: (a) Yes.

(b) The meaning of the sentence appears to be quite clear.

Mr. S. Satyamurti: Does it mean military control or friendly control or civil control?

Sir Aubrey Metcalfe: Fully under control: it is not necessary for me to specify the exact nature of the control.

Mr. S. Satyamurti: I am asking whether the situation on the border is kept under control, merely by continuous manifestation of military power, or by means of friendly arrangement with them, or because those people are willing of their own free will to accept the situation as they find it?

Sir Aubrey Metcalfe: What I should be inclined to say is that it is done by a judicious admixture of all the weapons at the disposal of Government.

Mr. S. Satyamurti: I want to know what is the percentage of the various ingredients in this mixture.

CASE OF THE EX-MAHARAJA OF NABHA.

104. ***Mr. S. Satyamurti:** Will Government be pleased to state whether their attention has been drawn to the questions and answers in the House of Commons regarding the case of the *ex-Maharajah* of Nabha?

Sir Aubrey Metcalfe: Yes, Sir.

Mr. S. Satyamurti: May I know what is the status of this *ex*-Maharajah of Nabha? Is he a political prisoner, or is he any longer a ruling prince?

Sir Aubrey Metcalfe: He is what is described as a detenu under a certain Regulation.

Mr. S. Satyamurti: How long has he been kept under this detention?

Sir Aubrey Metcalfe: I cannot give the Honourable Member the exact dates, but I can supply it if he wishes to know: it is some years.

Mr. S. Satyamurti: Are Government considering the question of releasing him, or removing the restrictions on him?

Sir Aubrey Metcalfe: I am afraid that I must raise a point of order on that as it concerns a question regarding the relations between the Governor General in Council and a Ruling Prince or Chief.

Mr. S. Satyamurti: May I have a considered ruling from you, on that point, Sir?

Sardar Sant Singh: May I know as a matter of fact whether the *ex*-Maharajah of Nabha is a ruling prince now?

Mr. President (The Honourable Sir Abdur Rahim): A question of order has been raised: the rule referred to by the Honourable the Foreign Secretary is that questions cannot be asked affecting relations with an Indian State. But the question here relates to the *ex*-Maharajah of Nabha who is no longer a ruling prince or head of a State.

Sir Aubrey Metcalfe: Any question, Sir, . . .

Mr. President (The Honourable Sir Abdur Rahim): The Chair has given its ruling.

Sir Muhammad Yakub: Is it a fact that the Congress pocket was benefitted from the purse of the *ex*-Maharajah of Nabha?

Mr. President (The Honourable Sir Abdur Rahim): That does not arise out of this.

Sardar Sant Singh: May I know whether it is a fact that the title of Maharajah has been taken away by the Government and whether he is now being detained as an ordinary citizen of the British Empire?

Sir Aubrey Metcalfe: I am not quite clear what my Honourable friend means by an ordinary citizen: I have explained already that he is a detenu under a certain Regulation.

Sardar Sant Singh: May I know what Regulation it is?

Sir Aubrey Metcalfe: As far as I remember, it is Regulation III of 1818.

Sardar Sant Singh: Does it apply to British subjects as well?

Sir Aubrey Metcalfe: It applies to all British subjects, I think.

Sardar Sant Singh: May I know if any allowance is being given to the Maharajah from the British revenues under the Regulation?

Sir Aubrey Metcalfe: No such allowance is given to him from Central revenues.

Sardar Sant Singh: Why has not an allowance been given to him from British revenues if he is detained under Regulation III of 1818?

Sir Aubrey Metcalfe: Because he has ample resources available from the State revenues.

Mr. Lalchand Navalrai: May I know if his title of Maharajah has been removed?

Sir Aubrey Metcalfe: I am not sure whether it has actually been removed, but he certainly does not use it.

Mr. S. Satyamurti: May I repeat my question, whether Government are considering the question of releasing this unfortunate man or removing the restrictions on him to any extent?

Sir Aubrey Metcalfe: So far as I know, that has not been considered.

EFFECT OF THE OTTAWA TRADE AGREEMENT ON INDIA.

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

- (a) whether their attention has been drawn to the following statement of the Honourable the Finance Member in Bombay in answer to the Indian Merchants' Chamber: "I do not wish to prejudge the ultimate question of the Ottawa Agreements, but I personally am convinced that on balance and looking only to the next few years—which is all that anybody can do—the Agreements are more favourable to India than to the United Kingdom"; and
- (b) whether the Honourable the Commerce Member was consulted on this matter before the Honourable the Finance Member so expressed himself?

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

(b) I do not think the Honourable Member is entitled to inquire whether there has been or has not been consultation between members of Government over a particular question.

Mr. S. Satyamurti: I submit the point for your ruling, Sir. The Honourable Member is perfectly entitled to say that he will not answer my question: it is for him to say that; but I am entitled, when a member of the Government, of which my Honourable friend is also a member, says that he is convinced that the Ottawa agreements are more favourable to India than to the United Kingdom, to ask whether in making that statement he consulted my Honourable friend, the Commerce Member, who is, to the best of my information, formally in charge of such agreements.

The Honourable Sir Muhammad Zafrullah Khan: I have given my reply to that question: that explanation merely explains what the Honourable Member asked. I perfectly understood all that and I say he is not entitled to ask whether members of the Government have had a consultation.

Mr. President (The Honourable Sir Abdur Rahim): The Chair thinks the Honourable Member means that it is confidential.

Mr. S. Satyamurti: Is that what you understand by the answer, Sir?

Mr. President (The Honourable Sir Abdur Rahim): That is what the Chair understands.

Mr. S. Satyamurti: Is that the Honourable the Commerce Member's opinion also?

The Honourable Sir Muhammad Zafrullah Khan: That, I think, the House will know during the course of the next week.

Mr. M. Ananthasayanam Ayyangar: How is it that the United Kingdom has allowed this pact to stand when it is to its prejudice and to its sacrifice?

The Honourable Sir Muhammad Zafrullah Khan: I am not the President of the Board of Trade.

REDUCTION OF TARIFF DUTIES.

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

- (a) whether there is any proposal being examined by them for the reduction of tariff duties in this country;
- (b) if so, what the tests are which will be applied; and
- (c) whether the whole matter will be discussed on the floor of this House before Government take any steps in the matter?

The Honourable Sir James Grigg: I have nothing to add to the reply which I gave to the Honourable Member's question No. 41.

Mr. S. Satyamurti: May I take it that the answer applies both to revenue and protective duties?

The Honourable Sir James Grigg: In so far as it definitely applies to anything, yes.

Mr. Satyamurti: I want to remind my Honourable friend that my earlier question was about revenue duties, unless I am mistaken.

The Honourable Sir James Grigg: I am sorry I misunderstood the Honourable Member's question: clearly any revision or study of the tariff which is being undertaken departmentally is confined to the revenue tariff.

GOVERNMENT'S POLICY REGARDING RATIO QUESTION.

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

- (a) whether their attention has been drawn to the Honourable the Finance Member's statement to the Indian Merchants' Chamber that "I will be no party to any monkeying about with the present ratio";
- (b) whether this is the policy of the Government of India; and
- (c) if so, why?

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

(c) Because in our opinion this is in the best interests of India.

Mr. S. Satyamurti: What is the meaning of "monkeying about"? (Laughter.)

(No answer.)

DISTURBANCES IN SECUNDERABAD.

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

- (a) the cause of the recent disturbances in Secunderabad;
- (b) whether they have enquired into the matter; and
- (c) what their conclusions are?

Sir Aubrey Metcalfe: (a) The Honourable Member is referred to the answer given to part (b) of his question No. 36.

(b) Yes.

(c) The Government of India are of opinion that it was unwise to grant permission for the erection of a pandal which blocked the route used on previous occasions for this procession.

Mr. S. Satyamurti: Will Government satisfy themselves by inquiries hereafter of any settlement that may have been arrived at with the consent of the better minds of both communities concerned, so as to avoid any future disputes?

Sir Aubrey Metcalfe: I have already replied on a previous occasion in the affirmative to that question: we will certainly do what is necessary.

POSITION OF PRINCE ABDUL RAHMAN OF AFGHANISTAN INTERNED AT COONOOR.

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

- (a) the position of Prince Abdul Rahman of Afghanistan (now interned at Coonoor);
- (b) what is the kind of treatment meted out to him; and
- (c) whether they are giving him sufficient maintenance to keep him in comfort?

Sir Aubrey Metcalfe: (a) and (b). He is a State Prisoner, detained under Regulation III of 1818 for reasons of State.

(c) Yes.

Seth Govind Das: Has not this gentleman, who is detained at Coonor, got some relations at Jubbulpore?

Sir Aubrey Metcalfe: I am not sure as to his exact relationship, but he is certainly connected with them.

Mr. T. S. Avinashilingam Chettiar: What is the reason for his detention at Coonor?

Sir Aubrey Metcalfe: For reasons of State which I cannot explain without going into matters which it would be undesirable to make public.

Mr. S. Satyamurti: With reference to the answer to part (c) of the question, what is he actually being paid?

Sir Aubrey Metcalfe: I am not in a position to give the exact sum, but I could easily find it out and let the Honourable Member know if he desires it.

Seth Govind Das: If this gentleman has relations in Jubbulpore, then why is he separated?

Sir Aubrey Metcalfe: I do not think they wanted to be together, as far as I understand the position.

Mr. T. S. Avinashilingam Chettiar: From what funds are they paid?

Sir Aubrey Metcalfe: From the Central revenues.

Mr. T. S. Avinashilingam Chettiar: Under what head?

(No reply.)

ALLEGED SMUGGLING OF JAPANESE GOODS AND PASSING THEM OFF AS INDIAN.

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

- (a) whether they have received any representation drawing their attention to the efforts stated to have been made by certain Japanese piecegoods manufacturers to smuggle Japanese goods into India and pass them off as Indian;
- (b) whether the facts stated in the accompanying newspaper cutting are correct; and
- (c) whether they propose to enact suitable legislation to stop this undesirable practice?

The Honourable Sir Muhammad Zafrullah Khan: (a)—(c). Representations were received from certain commercial bodies. A copy of the Government of India's reply to those representations is laid on the table. I also lay on the table for the Honourable Member's information a copy of a press report on the subject which appeared in the Delhi issue of the *Statesman* of the 27th October, 1935.

COPY OF A LETTER No. 16-G. (M. M.)/35, DATED THE 6TH SEPTEMBER, 1935, FROM THE ASSISTANT SECRETARY TO THE GOVERNMENT OF INDIA, DEPARTMENT OF COMMERCE, TO THE SECRETARY, INDIAN CHAMBER OF COMMERCE, 135, CANNING STREET, CALCUTTA.

I am directed to refer to your letter No. C-723, dated the 13th July, 1935, regarding the offer made by the Osaka Manufacturers Association of Japan to the Mohini Mills Limited, Bengal, to undertake to stamp the words "Made in Japan" on their piece-goods in such a way that they may easily be removed and replaced by the name of the "Mohini Mills" and thus be passed on as of Indian Manufacture.

2. I am to observe, in the first place, that the proposal of the Japanese manufacturers involves the marking of the piece-goods in question with the words "Made in Japan" and that, therefore, at the time of importation the provisions of the Merchandise Marks Act are amply fulfilled. It is no doubt true that these words would be printed in delible ink, but you are no doubt aware that all markings of piece-goods are of this nature.

3. The fraud on the public which appears to be contemplated would be committed when, after importation of the goods and deletion of the original marks, the dishonest Indian importer exposes the goods for sale with false marks indicating that they were of Indian manufacture. In such circumstances the sellers would bring themselves within the mischief of sections 480 and 482 of the Indian Penal Code and section 6 of the Merchandise Marks Act. In these circumstances, it would appear to the Government of India that the law already sufficiently provides for the punishment of the fraud.

4. I am further to say that the Government of India have noted with great satisfaction on the action taken by the Mohini Mills in this matter. They venture to express the hope that this firm is far from being unique in deprecating attempts to practise a fraud which could only be carried out with the connivance of an importer in India.

Copy of a Press Report from Statesman, dated Delhi, the 27th October, 1935.

CHANGING MARK OF ORIGIN.

GOODS FROM JAPAN.

Alleged auction of a "Mr. Ghose".

From our Correspondent, Madras, Oct. 24.

The Southern India Chamber of Commerce has received a letter from the Consul-General for Japan at Bombay, stating that the Osaka Manufacturers Association, which is alleged to have offered to supply cotton goods to Indian merchants with the stamp of origin printed in erasable ink, was run by "a Mr. Ghose, an Indian."

The Chamber had made representations to the Government of India that the Osaka Manufacturers Association had offered to supply goods to Indian merchants, with the stamp of their origin printed with erasable ink so that they might be erased and the words "made in India" might be stamped instead on the goods.

The Consul General for Japan has since heard from the Japanese Foreign Office in Tokyo that the Osaka Manufacturers Association was being run by Ghose without the collaboration of any Japanese citizen. The Consul General adds: "Ghose was warned in 1934 by the Osaka police for alleged misconduct. The police inquired into the matter referred to and Ghose has since left Japan for India".

The Consul General also states that the Osaka Manufacturers Association has ceased to exist.

Mr. S. Satyamurti: Does the Honourable Member know that this matter was raised, to my knowledge, at least as early as a year ago in this House?

The Honourable Sir Muhammad Zafrullah Khan: Possibly it was.

Mr. S. Satyamurti: May I know whether the Government propose to enact suitable legislation to insist that every article imported into this country must bear on it the name of the country or its origin?

The Honourable Sir Muhammad Zafrullah Khan: So they do. Perhaps it would help the Honourable Member if I read out to him the copy of the letter to which I have referred in my reply, because that will explain the position better, and he will then realise that no further legislation is necessary. May I, Sir, read it out, with your permission?

Mr. President (The Honourable Sir Abdur Rahim): Unless it is too lengthy a document.

The Honourable Sir Muhammad Zafrullah Khan: No, Sir, it is not very long. The first paragraph is introductory. Then it says this:

"I am to observe, in the first place, that the proposal of the Japanese manufacturers involves the marking of the piece-goods in question with the words 'Made in Japan' and that, therefore, at the time of importation the provisions of the Merchandise Marks Act are amply fulfilled. It is no doubt true that these words would be printed in indelible ink, but you are no doubt aware that all markings of piece goods are of this nature.

The fraud on the public which appears to be contemplated would be committed when, after importation of the goods and deletion of the original marks, the dishonest Indian importer exposes the goods for sale with false marks indicating that they were of Indian manufacture. In such circumstances the sellers would bring themselves within the mischief of sections 480 and 482 of the Indian Penal Code and section 6 of the Merchandise Marks Act. In these circumstances, it would appear to the Government of India that the law already sufficiently provides for the punishment of the fraud.

I am further to say that the Government of India have noted with great satisfaction on the action taken by the Mohini Mills in this matter. They venture to express the hope that this firm is far from being unique in deprecating attempts to practise a fraud which could only be carried out with the connivance of an importer in India."

Mr. S. Satyamurti: Have any prosecutions been instituted under the provisions mentioned by the Honourable Member?

The Honourable Sir Muhammad Zafrullah Khan: I have no information at present, but if the Honourable Member will put down a question, I will find it out.

CONTRACT FOR THE CONSTRUCTION OF THE NEW HOWRAH BRIDGE.

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

- (a) whether their attention has been drawn to the accompanying article† in the *Hindustan Times* entitled 'Germany in the running to build Howrah Bridge';
- (b) whether the facts stated therein are correct; and
- (c) what the latest position in the matter is?

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

(b) The Honourable Member is referred to the reply given on the 25th September, 1935, to the short notice question by Mr. Abdul Matin Chaudhury. The Government of India have no further information on the subject.

†Sent to the Department concerned.

(c) So far as Government of India are aware the tenders are still under consideration by the Howrah Bridge Commissioners and their Consulting Engineers.

Mr. S. Satyamurti: May I know, Sir, if the Honourable Member's attention has been drawn to a statement in the press that the Chairman of the Port Trust Commissioners, Calcutta, has recommended to the Commissioners that the contracts should be given to a British firm and not to an Indian Combine?

The Honourable Sir Muhammad Zafrullah Khan: My attention has been drawn to that statement in the press.

Mr. S. Satyamurti: May I know if the Government of India propose to take any action in the matter to ensure that this very valuable contract goes to the Indian Combine and not to any foreign firm?

The Honourable Sir Muhammad Zafrullah Khan: I wish the Honourable Member would tell me what action it is possible for the Government of India to take. In reply to the short notice question that was put to me in the last Session at Simla, I explained that the position was that, under section 5 of the Howrah Bridge Act, the matter of placing the contract lies in the hands of the Bridge Commissioners, subject to the approval of the Local Government of Bengal, and that, so far as this Statute is concerned and the power of placing this contract is concerned, the Government of India have no authority whatever.

Mr. S. Satyamurti: May I know if the Government of India will be good enough to address the Local Government of Bengal, and impress on them very strongly the feeling inside and outside this House that this contract should go to the Indian Combine?

The Honourable Sir Muhammad Zafrullah Khan: The Government of India trust that the Government of Bengal are fully aware of the feeling over the matter both in this House as well as outside it.

Mr. S. Satyamurti: May I know the reasons why the Government of India will not address the Bengal Government specifically on this matter?

Mr. President (The Honourable Sir Abdur Rahim): Isn't it a matter for the Local Government?

Mr. S. Satyamurti: It is also a matter on which the Government of India can surely address the Bengal Government. The Government of India do address Local Governments, and, as my friend reminds me, they addressed Local Governments on Empire Shipping. Surely, on this matter also, they can address the Local Government.

The Honourable Sir Muhammad Zafrullah Khan: As a matter of fact, I informed the House on the last occasion when questions were put to me on this subject, that the Government of India have addressed the Bengal Government to get all the information about the question, and, inasmuch as the House was anxious to know how the position stood, the Bengal Government are fully aware of the feeling in this matter.

Mr. M. Ananthasayanam Ayyangar: Is any portion of the Central revenues granted for the construction of this bridge?

The Honourable Sir Muhammad Zafrullah Khan: No.

SPEECH OF HIS HIGHNESS THE AGA KHAN AT THE LEAGUE OF NATIONS.

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

- (a) whether their attention has been drawn to the speech of His Highness the Aga Khan at the League of Nations;
- (b) whether they propose to take any steps on the suggestions contained in that speech; and
- (c) if not, why not?

The Honourable Sir Nripendra Sircar: (a) Yes.

(b) and (c). I am unable to identify the suggestions to which the Honourable Member refers. The speech, a copy of which is laid upon the Table, did no more than draw attention to certain points in respect of which the League has evoked criticism in India.

Speech made by H. H. Aga Khan at League of Nations Assembly on 13th September, 1935.

On the one subject that is dominating the mind of this Assembly there is much that I could say. But I am a man of few words, and I shall be brief.

In India criticism of the League of Nations is growing. India is troubled by the League's lack of universality, the incompleteness of its composition, and the tiny representation of Indians in its organisations. She is troubled by the great preponderance, as India sees it, of the energies the League devotes to Europe and in European interests. She is troubled by the magnitude of her own contribution to the League Budget—large in itself, for it is larger than the contribution of any non-permanent Member of the Council—disturbingly large when placed side by side with the poverty of so many of her many millions. She is troubled by the League's dramatic failures; troubled by the Disarmament Conference, long drawn-out, infructuous—and here I speak feelingly as a member of it from the beginning—whereas the rearmament of States Members is in full swing. She is troubled above all by the wars, declared or undeclared, that have been waged between its members.

And now a fresh trouble, greater than any of these, has arisen. Should the worst come to the worst—which God forbid—who dare foretell the evils, world spread, age-lasting, that might follow?

India's criticism of the League is directed to its shortcomings, not to the ideals of which the League was the outcome and which inspire her being. On the contrary, those ideals spring from the same source as India's own idealism, and the conception of collective security is appealing to Indian thought as the only alternative to international anarchy with ever-growing force.

The world is at the parting of the ways. Let wisdom guide her choice.

Dr. Ziauddin Ahmad: Sir, in view of the fact that we have been demanding a discussion on the question of the League of Nations during the last two Sessions, may I ask, Sir, if the Honourable Member in charge will be able to give us time this Session to discuss this question?

The Honourable Sir Nripendra Sircar: I think,—I speak subject to correction,—I said on the last occasion that if the Members felt that this matter should be discussed, then they ought either to give notice of a Resolution or to inform me. I think that was my answer, but I have not got the answer before me just now.

Dr. Ziauddin Ahmad: Sir, the Resolutions were tabled about half a dozen times, but they never came up. The Honourable Member, however, said in the Simla Session that he would give us time if the Leaders of Parties desired to have it. That was the reply.

The Honourable Sir Nripendra Sircar: Exactly, and there has been no response from the Leaders of Parties.

REPRESENTATIONS FROM THE HOSEIERY MANUFACTURERS' ASSOCIATION,
LUDHIANA.

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

- (a) whether they have received any representations from the Hosiery Manufacturers' Association, Ludhiana;
- (b) whether they are examining the matter; and
- (c) what steps they propose to take?

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

(b) and (c). The matter is receiving the consideration of the Government of India.

Mr. J. Ramsay Scott: May I ask what the subject matter is?

The Honourable Sir Muhammad Zafrullah Khan: The subject matter of the representation is with regard to duties on hosiery manufacturers.

PRICE OF SUGAR.

114. ***Dr. Ziauddin Ahmad:** (a) Is it not a fact that the price of Java sugar, after paying insurance and freight, and without custom duty, is Rs. 3-11-0 per maund?

(b) Is it not a fact that the price of sugar manufactured in India is Rs. 7-12-0 per maund at the factory?

(c) Is it not a fact that Indian consumers contribute about Rs. 4 extra for each maund of sugar they consume?

(d) In whose pocket does this contribution of Rs. 4 per maund go?

(e) What share of the profit goes to (i) Government, (ii) the growers of sugar-cane, and (iii) manufacturers of sugar?

Sir Girja Shankar Bajpai: (a) to (c). The price quotations of both Java and Indian sugar are fluctuating constantly, but the conclusion drawn in part (c) of the question is approximately correct.

(d) and (e). The difference between the two prices is shared by Government, sugar-cane growers, sugar manufacturers and others associated with the sugar industry directly or indirectly. It is not possible to determine the exact share of each.

Dr. Ziauddin Ahmad: Is it not a fact, Sir, that the price of sugar manufactured in India has gone up since I tabled this question?

Sir Girja Shankar Bajpai: As I have already stated in answer to part (a) the price fluctuates from time to time, and it is quite possible that at some stage it was slightly higher than the figure mentioned by the Honourable Member.

Mr. M. Ananthasayanam Ayyangar: Do Government propose to levy any further duty so as to increase the price of Java sugar?

Sir Girja Shankar Bajpai: I think the Honourable the Finance Member has stated more than once that he does not propose to announce his taxation proposals before the Budget.

Dr. Ziauddin Ahmad: Will the Honourable Member consider the point of view of the consumers also as they have to pay Rs. 7-12-0 for sugar instead of Rs. 3-11-0?

Sir Girja Shankar Bajpai: I think that my Honourable friend is rather late in putting forward the consumers' point of view.

DIMINUTION IN THE IMPORT OF SUGAR.

115. ***Dr. Ziauddin Ahmad:** (a) Is it a fact that the import of sugar during the first four months of the current financial year has been 50·95 lacs as compared with 68·38 lacs during the same months in 1934 and 103·34 lacs in the year 1933?

(b) What would be the effect on the revenue of Government of India on account of the diminution in the import of sugar?

(c) Have Government examined the detailed accounts of any factory in the United Kingdom? Is it running at a loss, or at a profit?

(d) Are Government aware that the definition of loss in the vocabulary of sugar manufacturers is the fall in the expected profit?

Sir Girja Shankar Bajpai: (a) Yes.

(b) The effect on the revenues of the Government of India can be estimated on the basis of the import duty on sugar, which is at present Rs. 9-1-0 per cwt.

(c) and (d). No.

Dr. Ziauddin Ahmad: As regards the examination of the accounts of sugar factories, may I ask whether this is not rather an important factor in determining in what proportion the sugar manufacturers are deriving benefit?

Sir Girja Shankar Bajpai: My Honourable friend's question is, "Have Government examined the detailed accounts of any factory in the United Kingdom?". As far as I know, they do not manufacture cane sugar in the United Kingdom. They manufacture beet sugar.

Dr. Ziauddin Ahmad: That is a misprint. However, I won't press.

USE OF MOLASSES.

116. ***Dr. Ziauddin Ahmad:** (a) Did Government receive any representation from the sugar manufacturers about the use of molasses?

(b) Have Government directed any research for extracting fuel oil from molasses?

(c) Are Government aware that the molasses, which is important by-product in the sugar manufacture, is now being buried, which is a dead loss to the country?

Sir Girja Shankar Bajpai: (a) Yes.

(b) No. The Honourable Member's attention is invited to the reply given on the 19th September, 1935, to Mr. Satyamurti's question No. 509.

(c) Government understand that purchasers exist for the whole of the Indian surplus of factory molasses.

Mr. T. S. Avinashilingam Chettiar: Are Government investigating the better uses to which the molasses can be put?

Sir Girja Shankar Bajpai: I think I stated in reply to the question to which I have already referred that alternative uses for molasses are under investigation.

EFFECT OF THE INCREASE IN THE IMPORT DUTY ON COTTON TEXTILES.

117. ***Dr. Ziauddin Ahmad:** (a) Will Government be pleased to state the effect of the increase in the import duty on cotton textile?

(b) Has the import from Japan increased or diminished?

(c) Has the total import of cotton textile increased or diminished?

The Honourable Sir Muhammad Zafrullah Khan: (a), (b) and (c). In the absence of information as to the particular increase of duty to which the Honourable Member refers, Government are not in a position to answer part (a) of the question. The Honourable Member, however, will find all the information he requires in the annual statements of the Sea-borne Trade of India.

Mr. M. Ananthasayanam Ayyangar: Will Government be pleased to state whether the quantity of grey goods imported has not increased over and above the quota prescribed?

The Honourable Sir Muhammad Zafrullah Khan: Prescribed from where?

Mr. M. Ananthasayanam Ayyangar: Under the Indo-Japanese Agreement. I want to know whether the quota prescribed for grey goods has not increased, and may I ask whether Government are watching the matter?

The Honourable Sir Muhammad Zafrullah Khan: I shall require notice of that question.

DEGREES IN HOMŒOPATHIC MEDICAL SCIENCE.

118. ***Dr. Ziauddin Ahmad:** (a) Are Government aware that bogus degrees in Homœopathic Medical Science are given by unauthorised person and bodies?

(b) Was this question considered by the Council of Medical Education?

(c) Are Homœopathic doctors recognised by the Council of Medical Education?

Sir Girja Shankar Bajpai: (a) Yes.

(b) No.

(c) The Council is concerned with the recognition of qualifications and not of individuals.

Dr. Ziauddin Ahmad: Is it not the duty of the Government acting directly or through some agency to see in the interests of the health of the people that bogus persons do not practise in the country?

Sir Girja Shankar Bajpai: In reply to previous questions, I have had occasion to state that the practice, whether by bogus or any other practitioner, of any system or so-called system of medicine is not prohibited by legislation in this country.

Mr. Lalchand Navalrai: May I know from the Honourable Member what is meant by bogus certificates? Does he mean certificates which are got from private persons or private companies or he calls them bogus because they are not Government certificates?

Sir Girja Shankar Bajpai: My Honourable friend—I am referring to Dr. Ziauddin Ahmad—would be able to explain more accurately than I his connotation of the word bogus, but for the general meaning I would refer Mr. Lalchand Navalrai to the many dictionaries which are in the Library of the House.

Mr. Lalchand Navalrai: My Honourable friend used the word “bogus” and did he then mean the dictionary meaning?

Sir Girja Shankar Bajpai: I never said that certificates of a bogus character were being given.

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

SENIORITY LIST OF CHARGEMEN AND ASSISTANT CHARGEMEN EMPLOYED IN
THE ELECTRICITY DEPARTMENT OF THE NORTH WESTERN RAILWAY.

119. ***Mr. H. M. Abdullah:** Will Government be pleased to lay on the table the seniority list of Chargemen and Assistant Chargemen employed in the Electricity Department of the North Western Railway?

The Honourable Sir Muhammad Zafrullah Khan: Government have no information and do not consider any useful purpose will be served by collecting it, as seniority lists are matters of detailed administration in which full powers have been delegated to the Agent, North Western Railway.

ABSENCE OF AN OVERBRIDGE AT THE JARANWALA STATION ON THE NORTH
WESTERN RAILWAY.

120. ***Mr. H. M. Abdullah:** (a) Are Government aware that at Jaranwala Railway Junction, on the North Western Railway, there is no overbridge to go over from one platform to another?

(b) Are Government aware that the present overbridge, being away from the platforms, does not serve any useful purpose?

(c) Are Government aware that passengers, for want of an overbridge on the platforms, have to cross the railway line at considerable risk?

(d) What steps do Government propose to take to remove this difficulty?

The Honourable Sir Muhammad Zafrullah Khan: With your permission, Sir, I will reply to questions Nos. 120 and 121 together. Government consider that these are matters of detail best left to the Local Advisory Committee to take up with the Administration. I am, however, forwarding a copy of the questions to the Agent, North Western Railway, for his examination.

Mr. Lalchand Navalrai: May I inform the Honourable Member that Agents do not allow the Local Advisory Committees to discuss such questions as the making of bridges. Does he know that?

The Honourable Sir Muhammad Zafrullah Khan: I am not aware of that.

Mr. Lalchand Navalrai: Will the Honourable Member call for replies from the Agents and place them before the House?

The Honourable Sir Muhammad Zafrullah Khan: I will not, but if the Honourable Member will bring to my notice any specific instance where consideration of such a question was ruled out by the Agent, I shall certainly look into it.

ABSENCE OF RAISED PLATFORMS AT THE JARANWALA STATION ON THE NORTH WESTERN RAILWAY.

†121. ***Mr. H. M. Abdullah:** Are Government aware that in the absence of raised platforms at Jaranwala Railway Station (North Western Railway) passengers are greatly inconvenienced? If so, what steps do Government propose to take in the matter?

UNDERBRIDGE BETWEEN LAHORE AND BADAMIBAGH STATIONS.

122. ***Mr. H. M. Abdullah:** (a) Are Government aware that the underbridge between Lahore and Badamibagh stations, just opposite the Sheranwala Gate, is too narrow?

(b) Are Government aware that traffic is ever increasing on this bridge, because the population on the other side of the line has considerably swelled now?

(c) Is it a fact that on rainy days water stands in that passage and renders it impassable?

(d) Is it a fact that there have been several accidents on that account?

(e) What steps, if any, do Government propose to take to remove this grievance?

The Honourable Sir Muhammad Zafrullah Khan: (a) The underbridge in question, which is 6' wide is not considered too narrow for the purpose for which it was built, namely, the passage of pedestrians and cattle.

†For answer to this question, see answer to question No. 120.

(b) Yes, but there is no valid reason why vehicular traffic should use it, as there are three other more suitable subways between Lahore and Badami-bagh, the nearest of which is only $\frac{1}{4}$ mile away from this particular under-bridge.

(c) During wet days water stands in the passage, but Government are not aware that it renders the passage impassable.

(d) No such accidents have been reported to the Railway Administration.

(e) Arrangements are now being made to drain the passage effectively and rail posts have been fixed at both ends to prevent the passage of vehicles but to allow free passage of animals and pedestrians.

CUSTOMARY LAWS PROVISIONS.

123. ***Mr. H. M. Abdullah:** Will Government be pleased to state if a provision similar to that contained in clause 27, Law and Justice Regulations (North-West Frontier Province), No. 7 of 1901, is contained in the Customary Laws of other provinces in British India, and if so, in which provinces?

The Honourable Sir Henry Craik: I would refer the Honourable Member to the provisions of the Acts and Regulations mentioned in the statement which I lay on the table.

Statement.

- (1) Section 26 of the Bombay Regulation IV of 1827.
 - (2) Section 16 of the Madras Civil Courts Act, 1873.
 - (3) Section 37 of the Bengal, Agra and Assam Civil Courts Act, 1887.
 - (4) Section 3 of the Oudh Laws Act, 1876.
 - (5) Section 5 of the Punjab Laws Act, 1872.
 - (6) Section 13 of the Burma Laws Act, 1898.
 - (7) Section 5 of the Central Provinces Laws Act, 1875.
 - (8) Section 4 of the Ajmere Laws Regulation 1877.
 - (9) Section 89 of the British Baluchistan Civil Justice Regulation, 1896.
-

PUBLICATIONS OF THE ARCHÆOLOGICAL DEPARTMENT.

124. ***Mr. C. N. Muthuranga Mudaliar:** (a) Will Government be pleased to lay on the table a list of all the publications of the Archæological Department of the Government of India, the reports of the Director General of Archæology since the year 1920, and all the memoirs published up to date, indicating the cost of each publication, the year of each publication, the number of pages in each publication, together with a statement as to the number of copies sold of each publication?

(b) Is it a fact that some publications contain a very few pages, but the price is heavy, as, for instance, in the case of the publication entitled "Guide to Nizamuddin, Specimens of Calligraphy, etc."?

(c) When was the latest annual report of the Director General published and to what year does it relate? Has he published any report relating to any year after 1928-29?

(d) If no report after that year has been published, what are the reasons for this inordinate delay in the publication of the annual reports?

(e) Are Government prepared to take steps to see that the report of each official year is published at least in the succeeding year?

Sir Girja Shankar Bajpai: (a) A statement containing the desired information has been placed in the Library of the House. It is, however, not possible to state the number of copies sold in each case.

(b) Prices of Archæological as of other publications are fixed by the Central Publication Branch after considering the cost of production. Consequently such instances as that quoted by the Honourable Member are possible.

(c) and (d). The latest annual report published in October, 1935, relates to 1929-30. The consolidated report for 1930-31 to 1933-34 is expected to be published in March, 1936. Archæological Reports deal with a wide variety of subjects and their editing requires much care and time. The severe retrenchment in the staff of the Department unfortunately did delay publication of the reports from 1930-31 onwards.

(e) Steps have already been taken to ensure the publication of the reports in due time.

Mr. C. N. Muthuranga Mudaliar: May I know what Government propose to do with those copies or publications which are unsold? Do they propose to destroy them after some time, or will they consider the question of distributing them to public libraries in the provinces?

Sir Girja Shankar Bajpai: So far as I am aware, the question of disposing of surplus copies of which there is no prospect of sale has not been considered, but I will have it considered.

Mr. M. Ananthasayanam Ayyangar: Are Government aware that since our questions last time, Honourable Members of this House are not given any intimation that they may take unused copies or unsold copies free of charge? What is the reason for that?

Sir Girja Shankar Bajpai: An Honourable Member, not exactly next to me, but next but one to me, says that he is given surplus copies.

Dr. Ziauddin Ahmad: And I have received 100 copies already.

QUALIFICATIONS OF ONE DIRECTOR GENERAL OF ARCHÆOLOGY.

125. ***Mr. C. N. Muthuranga Mudaliar:** (a) Will Government be pleased to state what are the qualifications of the present Director General of Archæology?

(b) What are the qualifications that are generally expected of an officer of such high status?

(c) Has the present Director General of Archæology any degree in Archæology, or Architecture, or Epigraphy, or any degree from any University? If not, what led Government to appoint him to such a high office? What position did he occupy in the department before he was elevated to this place?

(d) Does the present Director General of Archæology possess a knowledge of any of the Indian languages?

(e) Is not a knowledge of some Indian languages an essential qualification for the Director General's post?

(f) If the present Director General has no knowledge of any Indian language, how does he guide research work in his department?

(g) What are the publications which the present Director General has to his credit?

Sir Girja Shankar Bajpai: (a) Training and experience as architect, conservator and administrator.

(b) Ability to guide and administer the department.

(c) The reply to the first part is in the negative. He was appointed to the post in view of his seniority and the qualifications mentioned in the reply to part (a) of this question. He was Superintendent, Archæological Survey, Frontier Circle, before he was appointed as Director General.

(d) Yes.

(e) It is desirable but is not regarded as indispensable.

(f) Does not arise.

(g) He has edited the Annual Reports of the Archæological Department for 1924-25 and 1925-26, has contributed largely to the editing of Memoir No. 15 and is the author of Memoir No. 19.

Mr. C. N. Muthuranga Mudaliar: With regard to (b) may I know what language or languages he is conversant with?

Sir Girja Shankar Bajpai: According to the best of my knowledge, he is conversant with Persian and Urdu.

Mr. C. N. Muthuranga Mudaliar: I meant Indian languages.

Sir Girja Shankar Bajpai: I am sure, my Honourable friend who takes such a keen interest in archæology will appreciate the fact that no archæologist here in India can fully appreciate Indian archæology unless he had a knowledge of Persian.

SOUTH INDIAN OFFICERS EMPLOYED IN THE ARCHÆOLOGICAL DEPARTMENT, SOUTHERN CIRCLE.

126. ***Mr. C. N. Muthuranga Mudaliar:** (a) How many officers are there, occupying gazetted rank in Archæological Survey—Archæology Branch?

(b) Are Government aware that a majority of the monuments in Southern Circle are either Hindu or Buddhist monuments? How many South Indians are employed in the gazetted rank capable of handling such monuments in the Southern Circle?

Sir Girja Shankar Bajpai: (a) and second part of (b). A list showing the names of gazetted officers serving in the Archæological Department and the appointments held by them is laid on the table. Two of these officers belong to South India.

First part of (b). The answer is in the affirmative.

List showing the name of Gazetted officers serving in the Archaeological Department and the appointments held by them.

[Name of the officer.

Post held.

Class I.

- | | |
|--|--|
| 1. Mr. J. F. Blakiston | Director General of Archaeology in India. |
| 2. Mr. K. N. Dikshit | Deputy Director General of Archaeology in India. |
| 3. Khan Bahadur Mohd. Sanaullah | Archaeological Chemist in India. |
| 4. Khan Bahadur Maulvi Zafar Hasan | Superintendent, Archaeological Survey, Northern Circle. |
| 5. Mr. G. C. Chandra | Superintendent, Archaeological Survey, Central Circle. |
| 6. Mr. M. S. Vats | Superintendent, Archaeological Survey, Western Circle. |
| 7. Mr. C. R. Krishnamacharlu | Superintendent for Epigraphy. |
| 8. Mr. H. H. Khan | Superintendent, Archaeological Survey, Southern Circle. |
| 9. Dr. N. P. Chakravarti | Government Epigraphist for India. |
| 10. Mr. Mohd. Hamid Quraishi | Superintendent, Archaeological Survey, Frontier Circle. |
| 11. Mr. N. G. Majumdar | Superintendent, Archaeological Section, Indian Museum. |
| 12. Dr. Mohd. Nazim | Assistant Superintendent, Archaeological Survey (on leave). |
| 13. Mr. H. L. Srivastava | Assistant Superintendent, Central India and Rajputana. |
| 14. Mr. Q. M. Moneer | Assistant Superintendent, Western Circle. |
| 15. Dr. B. C. Chhabra | Assistant Superintendent for Epigraphy. |
| 16. Mr. T. N. Ramachandran | Assistant Superintendent, Eastern Circle. |
| 17. Dr. C. L. Fabri | Assistant Superintendent, Archaeological Survey (temporary for 4 months only). |

N.B.—One post, viz. that of Superintendent, Burma Circle is vacant.

Class II.

- | | |
|----------------------------------|--|
| 1. Dr. K. A. A. Ansari | Assistant Engineer, Northern Circle, Agra. |
| 2. Dr. M. A. Hamid | Curator, Central Asian Antiquities Museum, New Delhi (on leave). |

Mr. Lalchand Navalrai: May I know from the Honourable Member if all the officers in the Archaeological Department know Persian?

Sir Girja Shankar Bajpai: I never said that.

APPOINTMENTS TO THE POSTS OF TOWN INSPECTORS OF POST OFFICES.

127. ***Mr. O. N. Muthuranga Mudaliar:** (a) Will Government please state:

(i) whether the Director General, Posts and Telegraphs has issued a Circular No. 25, dated the 8th August, 1935, laying down the general principles for making appointments to the posts of Town Inspectors of Post Offices; and

(ii) whether one of the conditions for such appointment is that an official above the age of 40 years is ineligible for selection to the post?

(b) Will Government please state whether the Director General of Posts and Telegraphs has issued departmental instructions to the Post Masters General that the existing incumbents, who were appointed as Town Inspectors prior to the issue of the Circular No. 25, dated the 8th August, 1935, should be replaced if their age was over 40?

(c) Is it a fact that whenever the conditions of service are altered, the rights and privileges of the existing incumbents are always safeguarded and that the revised set of conditions of service are made applicable only to new entrants after a particular date? If so, will Government state why they do not propose to follow a similar procedure in regard to the existing Town Inspectors, and safeguard their rights and privileges by not bringing them under the new Circular referred to above?

(d) Is it a fact that no age limit has hitherto been observed in making appointments of Town Inspectors of Post Offices? If so, are Government prepared to issue revised orders exempting the existing incumbents from the age limit prescribed in the Circular referred to above?

The Honourable Sir Frank Noyce: (a) (i). Yes.

(ii) Yes.

(b) Yes.

(c) The reply to the first part is in the affirmative. As regards the second part, clerks who hold the posts of town inspectors have no right to continue as such throughout their service. They were and are always liable to be transferred to any other post at any time and as such no question of protecting the rights and privileges of existing incumbents arises.

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

BORROWINGS FROM PATHANS BY GOVERNMENT SERVANTS IN DELHI AND SIMLA.

128. ***Mr. C. N. Muthuranga Mudaliar:** (a) Will Government please state if they are aware as to how many Kabulis or Pathans are carrying on money-lending business amongst Government servants and others in Delhi and Simla?

(b) Will Government state if there is any inspection of the books of these Pathans by the Income-tax Department or others? If not, why not?

(c) If the answer to part (b) be in the affirmative, will Government state the usual rate of interest charged by these Pathan money-lenders?

(d) Are Government aware that Pathans, ostensibly doing money-lending business, move about with brass-band *lathis* and squat in front of the Secretariat offices and other places, and that they are a constant source of terror not only to the men to whom they have lent money but to parties of women and children who move about during the day time?

(e) Have Government taken any steps to register these Pathans and see that they do not terrorise or victimise those who borrow money from them?

(f) Is it a fact that a Deputy Secretary of one of the Secretariat Departments recently issued a circular to the clerks in his department to disclose all their dealings with such Pathans and impressed on them the necessity of having nothing to do with the Pathans in future?

(g) Do Government propose to issue broadcast circulars or advise their servants in the interests of all concerned to avoid borrowing from these Pathans at usurious rates of interest?

The Honourable Sir Henry Craik: (a) Government have no information.

(b) There is no reason to suppose that the books of the Pathans are not examined by Income-tax Officers if it is found that they are liable to the payment of income-tax.

(c) In view of the provisions of section 54 of the Indian Income-tax Act, 1922, it is not permissible to communicate information obtained from the books of assessees. I would, however, invite attention to the statement showing the rates of interest charged by Afghan money-lenders which was laid on the table of this House on the 31st July, 1934. This gives the rates charged in the Punjab and Delhi.

(d) The Government are aware that this type of money-lender has employed objectionable methods.

(e) The Government of India have not compiled a register of Pathan money-lenders. They are during their sojourn in India amenable to the laws of India and can be prosecuted for breaches of these laws.

(f) and (g). Office orders to this effect have been issued by several Departments of the Government of India.

REVISION OF SCALES OF PAY FOR THE INDIAN CIVIL SERVICE AND THE INDIAN POLICE SERVICE.

129. ***Mr. C. N. Muthuranga Mudaliar:** (a) Are Government aware that the recommendations of the General Purposes Retrenchment Committee, so far as they related to the services recruited by the Government of India, were given effect to as early as 1933?

(b) Why is there such a long delay in revising the scales of pay for the Indian Civil Service and the Indian Police Service and other Services, recruitment to which is made by the Secretary of State for India?

(c) With reference to the reply to question No. 516, dated the 25th February, 1935, do Government propose to address the Secretary of State to expedite his decision on the question of revision of scales of pay for the Indian Civil Service and the Indian Police Service, in view of the fact that the Government of India Act has been placed on the statute book?

The Honourable Sir Henry Craik: (a) Yes.

(b) and (c). As explained by me in this House in reply to question No. 516 on the 25th February, 1935, the Secretary of State decided to postpone further consideration of this question until after the passing of the Constitution Act. The question will now be further considered.

RELIEF TO THE COCONUT PRODUCERS ON THE WEST COAST.

130. ***Mr. C. N. Muthuranga Mudaliar:** (a) Is it a fact that weekly consignments of coconut and coconut products are being dumped on the west coast of India?

(b) Are Government aware that there is very great depression in the coconut market on the West Coast owing to the large imports of Ceylon products?

(c) With reference to the reply to question No. 355, dated the 20th February, 1935, will Government please state what action they have taken on Dr. J. S. Patel's report to give relief to the coconut producers on the West Coast?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (b). No.

(c) After careful consideration Government have come to the conclusion that an enhancement in the rates of duty on coconuts and coconut products is not justified. I may mention, however, that there has been a marked increase in the market values of coconuts and coconut products and especially of Ceylon coconuts and Government have consequently increased the tariff valuations of the articles substantially since the 1st January, 1936.

Dr. T. S. S. Rajan: Does the Honourable Member know that the enhancement of the tariff valuations has not relieved the economic condition of the coconut growers there?

The Honourable Sir Muhammad Zafrullah Khan: It will give them some relief.

Dr. T. S. S. Rajan: Is this all the relief that was expected or wanted with regard to the representation made to Government?

The Honourable Sir Muhammad Zafrullah Khan: The tariff value of coconuts is already above the figure which was mentioned to me when I went to the South of India as the figure which would give the desired relief.

Dr. T. S. S. Rajan: Does it at all compare favourably with the depression that has taken place in the coconut industry in Travancore and other places. Is the enhancement of the tariff valuation in proportion to the depression that has occurred in the coconut industry?

The Honourable Sir Muhammad Zafrullah Khan: It is not in proportion to the depression and it has no reference to the depression because it does not depend upon that factor at all.

Dr. T. S. S. Rajan: How are Government justified in saying that it has helped them?

The Honourable Sir Muhammad Zafrullah Khan: Because the tariff valuation for 1935 was Rs. 44 per thousand coconuts, and, for 1936, it is Rs. 55—a difference of Rs. 11.

Dr. F. X. DeSouza: Are Government aware that the enhancement in the price of coconuts referred to by the Honourable Member is only temporary and the price has now gone back to the former level?

The Honourable Sir Muhammad Zafrullah Khan: I am not aware of that.

Dr. F. X. DeSouza: In view of the low price now prevailing, will Government consider the question of raising the import duty to prevent further dumping by Ceylon.

The Honourable Sir Muhammad Zafrullah Khan: I have already answered the question.

POSTAL VOTING IN CERTAIN CONSTITUENCIES.

131. ***Mr. C. N. Muthuranga Mudaliar:** With reference to the reply to parts (c) and (d) of question No. 1607, dated the 6th April, 1935, will Government please state whether they have asked all the Local Governments to amend the Regulations applicable to constituencies in which postal voting is in force, so as to require the use of registered post for sending the ballot papers to the respective voters?

The Honourable Sir Nripendra Sircar: Madras was the only Province in which the Regulations applicable to the constituencies in question did not require ballot papers to be despatched by registered post. The Madras Regulations have since been amended so as to render the use of the registered post obligatory.

DETENTION OF THE LATE AMIR MUHAMMAD YAKUB KHAN OF AFGHANISTAN.

132. ***Seth Govind Das:** (a) For how many years did Government keep the late Amir Muhammad Yakub Khan of Afghanistan under detention in this country?

(b) What was the total expenditure incurred on account of his detention in this country?

Sir Aubrey Metcalfe: (a) 43 years 11 months and 15 days.

(b) The late *ex*-Amir was in receipt of an allowance of Rs. 5,000 per mensem. The total expenditure at this rate for the period given in the answer to part (a) of the question amounts to rather over 26 lakhs of rupees.

Mr. T. S. Avinashilingam Chettiar: What is the purpose for which these large sums are paid for the maintenance of these foreign princes?

Sir Aubrey Metcalfe: They are State Prisoners under Regulation III.

ALLOWANCES OF THE AFGHAN PRINCES INTERNED AT JUBBULPORE.

133. ***Seth Govind Das:** (a) What is the allowance given to the Afghan Princes interned at Jubbulpore monthly towards their subsistence in each case?

(b) Have their allowances been fluctuating from time to time?

(c) Since when are they given State Prisoner's allowance and after what interval of time since the death of their father?

(d) To what extent have their allowances been deviating?

(e) What is their present allowance in each case?

(f) Have they been appealing to the different provincial Governments where they were interned from time to time?

(g) Did Government increase their allowances in order to prevent them from running into debts?

(h) What is the total amount to which the three princes, interned at Jubbulpur, are indebted, including their debts incurred in Burma?

(i) What is the total number of members in each of the three families?

(j) What arrangement do Government contemplate making for giving their daughters in marriage according to their birth and status?

Sir Aubrey Metcalfe: (a) The Afghan refugees referred to as "the Afghan Princes", interned at Jubbulpore are:

(i) Sardar Abdullah Khan;

(ii) Sardar Abdul Hamid Khan, and

(iii) Sardar Abdul Qayyum Khan.

and they are in receipt of a monthly allowance of Rs. 600, Rs. 500 and Rs. 450, respectively.

(b) Yes.

(c) The Sardars have been in receipt of allowances from Government from a time before the death of their father, the *ex*-Amir Muhammad Yakub Khan.

(d) The information is given in a statement which I place on the table of the House (as below):

Name.	During life		After death		On transfer		Allowances.	
	time of their		of father in		to Burma in		On return	
	father.		November		1926.		to India in	
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Revised in
	per mensem.	per mensem.	per mensem.	per mensem.	per mensem.	per mensem.	per mensem.	1934. 1935.
								p. m. p. m.
S. Abdullah Khan	300	300	600	300	450	600		
S. Abdul Hamid Khan	250	250	500	250	375	500		
S. Abdul Qayyum Khan	225	225	225	225	336½	450		

(e) The answer has already been given in reply to part (a) of this question.

(f) Yes.

(g) The Government increased their allowances so as to make it wholly unnecessary for them to incur further debts.

(h) The debts contracted, while the Sardars were in Burma, are stated to amount to Rs. 10,000. No information is available as regards the debts incurred in the Central Provinces.

(i) The total number of members in each of the three families according to the most recent reports received is as follows:

Name.	No. of family members.
S. Abdullah Khan	6 (wife and 5 children).
S. Abdul Hamid Khan	7 (wife, 5 children and mother-in-law).
S. Abdul Qayyum Khan	6 (wife, 4 children and mother-in-law).

(j) No proposals for the marriage of the Sardar's daughters have come to the notice of Government.

Mr. M. Ananthasayanam Ayyangar: Under what circumstances were they detained?

Sir Aubrey Metcalfe: In the same circumstances as other Afghan refugees. I have already explained—under Regulation III of 1818.

Seth Govind Das: Are Government aware that these allowances are not sufficient for them to get on with?

Sir Aubrey Metcalfe: Government consider that they are perfectly adequate.

Seth Govind Das: Are Government aware that they are indebted in Jubbulpore to a very great extent?

Sir Aubrey Metcalfe: It is their own fault. Government cannot prevent people from running into debt, if other people give them credit.

Seth Govind Das: Is there any chance of lifting the ban on them, so that they can move about and do some business?

Sir Aubrey Metcalfe: The only business which they have ever shown anxiety to do is to purchase goods for which they are unable to pay.

Seth Govind Das: Do Government not consider that it is really after all their fault because they are being interned without any reason, and, therefore, these debts have to be incurred, and also they are not able to engage in any business because they are interned in one place?

Sir Aubrey Metcalfe: Sir, the statement that they are being interned without any reason has no foundation in fact.

Mr. M. Ananthasayanam Ayyangar: Why should they not be sent back to their own place so as to avoid this perpetual drain on our own revenues?

Sir Aubrey Metcalfe: The reasons why they cannot be sent back to their own place are reasons of State which it would be improper for me to divulge in public.

Seth Govind Das: Are they going to be kept as internees for the whole of their lives?

Sir Aubrey Metcalfe: That I am unable to say.

**INCOME-TAX DEDUCTED FROM THE ALLOWANCES OF THE AFGHAN PRINCES
INTERNED AT JUBBULPORE.**

134. ***Seth Govind Das:** (a) Will Government be pleased to state whether the Prince internees at Jubbulpore have to pay tax on income from their allowance?

(b) What amount is being deducted from their monthly allowance towards income-tax?

(c) How much in all is being deducted from their allowance every month towards payments of debt and income-tax?

(d) Do they get the balance of their allowances in kind or cash?

(e) Were they called upon to furnish their family budgets?

(f) Did Government find in the family budgets, furnished by them, unnecessary or superfluous items?

(g) What was the amount in each of the three brother's cases according to their family budgets?

(h) How much did Government disallow out of their total budgets?

(i) Who will meet the detention expenses under the autonomous India?

(j) Do Government propose to give them sufficient allowance to enable them to live according to their status and pay off their debts? If so, what are the arrangements under contemplation? If not, will Government be pleased to state their reasons?

(k) Do Government propose to make adequate provisions for their children's education and facilities to get the daughters married according to their birth and status? If not, why not?

Sir Aubrey Metcalfe: (a) Yes.

(b) Rs. 84-13-0 per mensem.

(c) Rs. 434-13-0 per mensem.

(d) The balance of allowance in each case is paid in cash.

(e) Yes.

(f) Yes.

(g) Each of the three brothers produced a family budget of approximately Rs. 1,150 per mensem.

(h) Rs. 2,258-4-0.

(i) By the Federal Government in the Department of External Affairs.

(j) Government are already giving sufficient allowances to the Sardars in question. The latter parts of the question do not therefore arise.

(k) Government have already granted educational allowances to the three sons of school going age, of Sardar Abdullah Khan as recently as April last. As regards the other two Sardars, their sons have not yet reached the school going age. Government are not aware of any proposals regarding the marriage of the Sardars' daughters.

Seth Govind Das: Is this family budget prepared by the Government in consultation with these Prince internees?

Sir Aubrey Metcalfe: If the Honourable Member refers to the family budgets of Rs. 1,150 per month a piece, they were certainly not prepared by the Government.

Seth Govind Das: Is the budget then being given by these Afghan princes themselves?

Sir Aubrey Metcalfe: The budget was drawn up and prepared by themselves as being what they considered to be an estimate of their aggregate expenditure. Government regarded that estimate as grossly extravagant and unnecessary.

Seth Govind Das: And whatever they gave as their budget is the sum provided to them?

Sir Aubrey Metcalfe: As I have already explained in my question, a sum has been provided that Government consider to be entirely adequate.

SHORT NOTICE QUESTIONS AND ANSWERS.

OUTBREAK OF FIRES IN JHARIA COLLIERIES.

Mr. T. S. Avinashilingam Chettiar: Will Government state:

12 Noon.

- (a) whether the news in the *Hindustan Times* of the 1st February, that there are forty fires affecting 29 collieries in Jharia is true;
- (b) the reason for these fires;
- (c) the damage caused by them; and
- (d) whether they propose to take preventive measures for the future; if so, what?

The Honourable Sir Frank Noyce: Before I answer this and the subsequent short notice question by Mr. Joshi, I should like, with your permission, Sir, to take this opportunity of expressing the deep sympathy of the Government of India, which, I am quite sure, will be shared by all sections in this House, with the families of those who perished in the regrettable disaster at the Loyabad Colliery and with the survivors.

(a) I understand that there are at present forty-five separate fires in 29 different collieries in the Jharia coalfield.

(b) I believe that most underground fires are caused by spontaneous combustion, and that this in turn is attributable to a considerable extent to unsatisfactory mining methods.

(c) I assume that by damage the Honourable Member means loss of coal. If so, I can give no more recent estimate than that made by Mr. Norman Barraclough, Inspector of Mines, and published in 1928 in Part 3 of Volume LXII of the Records of the Geological Survey. This paper which was based on inquiries made at the instance of the Government of India gave the quantity of coal lost in this field at rather over 12 million tons. Since then the loss must have increased substantially.

(d) We are pursuing the matter actively both from the point of view of safety in mines and from the point of view of coal conservation and I hope to have a discussion on the 19th of this month with representatives of the coal owners' organizations and experts regarding the measures that should be taken.

Mr. B. Das: Supplementary question.

The Honourable Sir Frank Noyce: May I suggest, Sir, that it would perhaps be convenient if supplementary questions on this question were dealt with after I have replied to Mr. Joshi's question on the same subject.

OUTBREAK OF FIRES IN JHARIA COLLIERIES.

Mr. N. M. Joshi: (a) Will Government be pleased to state what information they have regarding the accident that took place in the Loyabadi colliery?

(b) Is it a fact that two serious accidents of similar nature had taken place some months ago in the coal area?

(c) Will Government be pleased to state the results of the inquiries that were made in the accidents referred to in part (b)?

(d) Will Government be pleased to state whether they have considered the question of strengthening the regulations for safety in mines, and if so, what steps they propose to take towards that end?

(e) Will Government be pleased to state what action they propose to take for relieving the distress of the families that have lost their breadwinners?

(f) Will Government be pleased to state whether any efforts are being made, either by private persons, or by Government, to collect funds to relieve the distress of the families of the victims?

The Honourable Sir Frank Noyce: (a) A fire was discovered in the colliery at 5 A.M. on the morning of the 30th January. Its cause is not yet known. The fire rapidly attained serious dimensions, but by about 6 A.M. all the miners on the night shift were safely removed. The management then attempted to isolate and control the fire by the usual method of erecting stoppings in all airways leading to the seat of the fire. At about 12-30 an ignition of gases occurred in the fire area and this appears to have blown out some stoppings and filled a large part of the workings with poisonous fumes. A number of the persons employed were brought safely to the surface: and although 23 of these had to be taken to hospital suffering from gas poisoning, all these have survived. Rescue parties, which included the Chief Inspector and the Inspector of Mines, brought up twelve persons of whom five died. Rescue operations were still in progress at about 5 P.M. when a second explosion occurred, and the main roadway where the rescue party was working was flooded by poisonous gases, and the rescue party had to be withdrawn. Shortly afterwards the Chief Inspector and three Mining Engineers again went down the mine but found conditions such that the work could not be safely continued, and it appears that by this time there was no possibility of any person being alive in the pit. The number of fatalities is believed to be 37 but might be as high as 40. Of the 23 taken to hospital 21 have already been discharged cured.

(b) I assume that the Honourable Member is referring to the disasters in the Bagdigi colliery in June, 1935, and in the Kurhurbaree colliery in July, 1935. Of these only the former was due to an underground fire: the latter was caused by an explosion arising from short-firing.

(c) Courts of Inquiry were appointed under the Indian Mines Act by the Government of Bihar and Orissa to inquire into these accidents. Copies of their reports will be placed in the Library as soon as printed copies are available. I may mention that copies are now available. I have just received a copy of the report on the Bagdigi colliery accident. It will be placed in the Library at once.

(d) Proposals to this effect were made in the report on the Bagdigi accident which has recently been published. But the provisions of the law make it impossible to amend the regulations rapidly and, mainly for this reason, I propose, as I have already indicated in reply to a previous question, to examine urgently the question of whether other and speedier preventive measures cannot be taken.

(e) and (f). I presume that the dependents of the workmen killed will be entitled to secure compensation under the law, and the Commissioner for Workmen's Compensation has power to take the initiative, if necessary, in order to secure that they are not left unaware of their rights. I have not heard of the opening of any fund.

Mr. N. M. Joshi: May I ask why there is any uncertainty as to the number of fatalities? Is it due to the fact that the Government have no knowledge as to how many people were in the mines?

The Honourable Sir Frank Noyce: I understand, Sir, that people employed on recovery work were passing in and out of the mines before the accident; and it has therefore been necessary to call a muster roll to find out exactly who were at the mines at the time. I take it that the inquiries on that point will soon be completed, if it has not been done already, and that information in regard to the total number of fatalities will soon be available.

Mr. B. Das: Is it not a fact that the Government were alive to these series of mine fire disasters which have culminated in the last disaster; and, if so, why is it that the Government did not exercise their executive powers and stop these mines from working so that these disasters should not have occurred?

The Honourable Sir Frank Noyce: Sir, Government have exercised all the powers available to them under the present Act and Regulations. The mines are worked in accordance with the Mines Act and the Regulations thereunder. These fires show that further action is necessary, and, that is why, as I have already said, a conference is being summoned on 19th February which will consider all the questions arising out of the present state of affairs.

Mr. B. Das: Will the Honourable Member say when were these mines last inspected by the Chief Mining Engineer and did he warn these mine-owners of the possibility of such fires in view of the fires a year since in other places?

The Honourable Sir Frank Noyce: The mines are constantly inspected by the Chief Mining Engineer and his staff, but these fires have been going on for some time. The position in the Jharia coalfield has, I think it is correct to say, worsened very considerably during the last year or two. I may mention for the information of the House that Bagdigi accident is, I think, the first bad accident which has been due to an underground fire. It is the Bagdigi accident which has drawn attention to the necessity for stiffening the Mines Regulations. Immediately I received a report of the accident in that mine, before this further accident happened, I had decided that something must be done and done at once and the conference I have mentioned had actually been summoned before this further lamentable accident in the Loyabad colliery.

Mr. N. M. Joshi: Is it not a fact that the report in one of these enquiries recommends the appointment of a Committee to go into the question of safety?

The Honourable Sir Frank Noyce: The report on the Bagdigi colliery accident does recommend a committee of enquiry and the question whether such a committee should be appointed will be considered. But, as my Honourable friend knows the methods of committees are rather slow, and I want to see if something could be done in advance of the report of such a committee, if it is decided to appoint one.

Mr. N. M. Joshi: May I ask whether the miners in Jharia will be represented in the conference which is going to be held shortly?

The Honourable Sir Frank Noyce: No, Sir. This conference will consist purely of experts.

Mr. N. M. Joshi: May I ask whether the representatives of the miners are not expected to know something about the conditions in mines?

The Honourable Sir Frank Noyce: No, Sir. I doubt if the representatives of miners are in a position to deal with the prevention of fires.

Mr. B. Das: In view of the fact that Government were alive to the gravity of the danger of fires in mines for the last one year, why did they not take executive action by passing an Ordinance or taking special power before this Assembly empowers them by an Act for stoppage of work in those coal mines?

The Honourable Sir Frank Noyce: As I have said, Government have been alive for some time past to the state of Jharia coalfields owing to fires and everything that is possible under the existing Act and Regulations has been done. I would repeat that the matter has been engaging the attention of the Chief Mining Engineer and everything that can possibly be done within the framework of the existing Act and Regulations has been done. The necessity of doing something more drastic than that has been brought to the special attention of the Government by the report on the Bagdigi accident which reached my hands about a fortnight or so ago.

Mr. N. M. Joshi: Who are all going to attend this Conference which is going to be held?

The Honourable Sir Frank Noyce: The Chief Inspector of Mines, the Chief Mining Engineer of the Railway Board and the representatives of the Indian Mining Federation, of the Indian Mining Association, of the Colliery Owners' Association and also of the Government of Bihar and Orissa.

Mr. N. M. Joshi: May I ask in view of the fact that the Government of India are proposing to invite representatives of employers, whether they will not consider the advisability of inviting the representatives of trade unions in the mining area?

The Honourable Sir Frank Noyce: This is a technical conference and for that reason it will be confined to people with technical knowledge.

Mr. N. M. Joshi: May I ask whether the Indian Mining Association and the other Associations which the Honourable Member mentioned consist of experts or of business people?

The Honourable Sir Frank Noyce: They have obviously to be invited to the Conference because it will be they who will have to take such action as may be decided upon at the conference.

Mr. N. M. Joshi: May I ask whether it is not a fact that if the representatives of the Mining Associations have to be included because they have to take steps for the safety of the mines, the miners who suffer on account of these accidents also deserve to be heard and therefore their representatives also should be included in the conference?

The Honourable Sir Frank Noyce: Yes, Sir. It is perfectly true that it is the miners who suffer but it does not necessarily mean that they are in a position to advise on what I have tried to explain is a highly technical subject.

Seth Govind Das: Why did not the Government issue an order under section 144, Criminal Procedure Code, so that the labourers would not have gone there to work?

The Honourable Sir Frank Noyce: After the accident?

Seth Govind Das: Before the accident?

The Honourable Sir Frank Noyce: If the Government had known there would be an accident or even if they had known there was going to be danger of an accident, then they would naturally have prevented people from going to the mines.

Seth Govind Das: The Government surely knew of the dangerous position of these mines. Why did they not issue an order under section 144 so that the labourers would not have gone there to work?

Mr. President (The Honourable Sir Abdur Rahim): Order, order. The matter has been sufficiently discussed now.

MOTIONS FOR ADJOURNMENT.

CONTRACT FOR THE HOWRAH BRIDGE.

Mr. President (The Honourable Sir Abdur Rahim): Sardar Sant Singh has given notice of a motion for the adjournment of the Assembly for the purpose of discussing a definite matter of urgent public importance, namely the Government of India's attitude in regard to the contract for Howrah bridge going to a British firm as is evident from a Press report—*The National Call*, Delhi, dated the 6th February, 1936.

[Mr. President.]

I should like to know from the Honourable Member how he makes out that this is a case of urgent public importance within the meaning of the Rules. I take it, this question has been engaging the attention of the Local Government for a long time.

Sardar Sant Singh (West Punjab: Sikh): As regards the question put by you, Sir, I have only to say that the news, published in the *National Call* of yesterday's issue was that the matter is to be decided by the Howrah Bridge Commissioners within three days, and, unless steps are taken to prevent the contract going to a British firm, the House may be too late to express their opinion on the point. Hence there is urgency for discussing this question.

Mr. President (The Honourable Sir Abdur Rahim): Before a decision is arrived at by the authority authorized to take a decision, it is not the practice to allow such a motion for adjournment.

Sardar Sant Singh: My submission is that a discussion of this motion will facilitate us in impressing upon those who are engaged in this particular business the strong views of this House as well as of the public at large and after a decision has been taken it may be irrevocable and we may not be able to influence their judgment.

The Honourable Sir Muhammad Zafrullah Khan: (Member for Commerce and Railways): I submit, Sir that the motion that is sought to be moved in connection with this matter is out of order as an adjournment motion. All that is urged is that there is a rumour that the Chairman of the Howrah Bridge Commissioners proposes to make a certain recommendation. Now, to begin with, is the House going to discuss the merits of a rumour? The Honourable Member who seeks to move this motion has no knowledge himself whatsoever nor has anybody else in this House with regard to what is happening. How will the House discuss this matter then? There is no definiteness about it.

An Honourable Member: He has knowledge.

The Honourable Sir Muhammad Zafrullah Khan: What is the knowledge?

Sardar Sant Singh: The knowledge is that within three days' time the Commissioners will be called upon to decide that the contract should go to a British firm.

The Honourable Sir Muhammad Zafrullah Khan: What is the basis of that knowledge? It is based on this cutting from the *National Call* and the cutting from the *National Call* merely mentions what it guesses to be happening. And even if it were true and it can be proved that the Chairman of the Bridge Commissioners has a certain proposal to make or that in his opinion a certain firm ought to be recommended, is that a matter to be discussed on an adjournment motion? Or, is the opinion of one of the Bridge Commissioners a definite matter which ought to form the subject-matter of a motion for adjournment?

Next, Sir, the motion says that it is to discuss the attitude of the Government of India, what is the attitude disclosed by the Government of India which requires discussion on an adjournment motion? That is again

entirely indefinite. All that the Government of India have said is that the matter is regulated by the Howrah Bridge Act as it is and that under that Statute power lies with the Bridge Commissioners subject to the approval of the Bengal Government. I submit that the matter is entirely indefinite and vague and there is nothing on which Government can either supply any information or express any opinion.

Mr. R. S. Sarma (Nominated Non-Official): Sir, with regard to the observations made by the Honourable the Commerce Member, it is not only a rumour that has been published in the *National Call*, but a definite statement. It is not that the Chairman of the Bridge Commissioners has a proposal to give it to a foreign firm, but that he has made a definite recommendation to the sub-committee saying that in his opinion as Chairman this particular order should be placed with a firm outside this country.

Mr. President (The Honourable Sir Abdur Rahim): The matter is still under consideration, is it not?

Mr. R. S. Sarma: It is being discussed now. And, with regard to the attitude of the Government of India, it comes in this way. I hope the Government of India will realise that if this order is placed outside this country, apart from the political reactions of a measure like that, it will result in a great and enormous loss to the Central Revenues.

Mr. President (The Honourable Sir Abdur Rahim): Order, order. That matter cannot be argued now.

There are two points to be considered. The first is whether this is an urgent matter within the meaning of the rule. In this connection, I find that there is a ruling of the 2nd July, 1923, to this effect:

"Mr. T. V. Seshagiri Ayyar wished to move the adjournment of the House to call attention to a matter of urgent public importance in connection with the recent announcement that the Duke of Devonshire is going to disclose in the House of Commons, before the middle of July, settlement regarding Kenya question.

The President ruled: That an announcement which is going to be made cannot be a matter of recent occurrence, and, therefore, the Honourable Member's request is not in order."

I must say that this is based on the obvious ground of convenience.

The next objection that is taken is that to discuss the attitude of the Government of India regarding this matter is too vague. I am also inclined to agree with that view. I, therefore, rule that the motion is out of order.

DEMAND OF SECURITY FROM THE ABHYUDAYA FOR PUBLICATION IN VERBATIM OF A SPEECH DELIVERED IN THE LEGISLATIVE ASSEMBLY.

Mr. President (The Honourable Sir Abdur Rahim): There is another motion of adjournment in the name of Sardar Sant Singh who wishes to discuss "the encroachment on the privileges of the Members of the Legislature to publish their speeches *in verbatim* by the demand of security from the newspaper *Abhyudaya*.

I should like to know exactly what is the question of privilege. Is it that of publishing their speeches?

Sardar Sant Singh: Yes, Sir. A similar question came up in 1932 before this House when a similar question of the privilege of the House for publishing speeches was raised. It was on the 12th February, 1932. On that occasion, the then Home Member

Mr. President (The Honourable Sir Abdur Rahim): Was that a motion of adjournment?

Sardar Sant Singh: That was a motion of adjournment tabled on account of the unsatisfactory nature of the reply to a question that I had the privilege to ask in this House about the privilege of publishing speeches and how that has been affected by the Press Act and the Ordinance which was then issued.

Mr. President (The Honourable Sir Abdur Rahim): I want to know whether that was a motion of adjournment.

Sardar Sant Singh: It was a motion of adjournment tabled by Mr. Ranga Iyer relating to:

“The unsatisfactory reply of the Honourable the Home Member to a question of Sardar Sant Singh, M.L.A., regarding the publication in the press of the Assembly speeches.”

It is on page 657 of Vol. I of 1932. On that occasion, there was a good deal of discussion in which you, Sir, also took part. You were pleased to say on that occasion that if the speeches of Honourable Members are not allowed to be published in the press of the country, it is better to shut up this House and suspend this Constitution. On this the Honourable the President wanted the legal opinion of the then Law Member as to the state of affairs created by the issue of the Ordinance on this particular matter. That opinion was given on the 13th February and it is published on page 722 of the Debates. The question was how far the enactment of the press laws affects the privilege of the Members of this House to publish their speeches outside in the press, and this was the opinion given:

“Sir, with reference to the inquiry which was made of me this morning I beg to say as follows: that in my opinion, the Ordinances have made no change in the ordinary law of the land in the matter of publication in the public press or otherwise of the proceedings of the Legislature.”

In view of this opinion, the Honourable the President was pleased to say:

“That being so, the whole object of the adjournment motion is met and nothing further need be said. I trust the opinion will be considered satisfactory that no change has been made in the publication of the proceedings of the Assembly in the public press by the promulgation of the Ordinances.”

Now, I want to submit that what has happened in this case is that an Honourable Member of this House made a speech in this House. That was of course a privileged speech. After that

Mr. President (The Honourable Sir Abdur Rahim): I do not want a long argument on this, but what is the privilege here?

Sardar Sant Singh: The privilege that freedom of speech extends not only to the precincts of this House, but extends outside also, and that privilege, as I think the House will agree with me, is very important.

Mr. N. M. Joshi (Nominated Non-Official): When was it violated?

Sardar Sant Singh: It was violated the other day when security was demanded from the *Abhyudaya* for publishing *verbatim* the speech of an Honourable Member of this House. That was a privilege which has been violated by one Provincial Government. My submission is that this House has a right to consider the breach of privileges and to express its opinion for the maintenance of that privilege.

The Honourable Sir Nripendra Sircar (Law Member): I take two objections. First, the question of privilege cannot be discussed on an adjournment motion. The President was quite right in asking, if I may say so with respect, whether what he was reading was on an adjournment motion. It was an adjournment not for discussing privilege but for discussing the unsatisfactory nature of the Home Member's reply. Now, Sir, the English and Indian authorities are quite clear. May's Parliamentary Practice (page 249) says:

"Matters arising out of the debates of the same session, or the terms of a bill before the House of Lords, matters of privilege or order . . . cannot be submitted to the house under this standing order . . ."

That is Standing Order No. 10 which we have copied in our rules for adjournment motions. The English ruling is perfectly clear that we cannot discuss a question of privilege on an adjournment motion. The author points out what can be done, but I am really not taking on myself the role of being an adviser to Sardar Sant Singh; he can find out for himself.

Now, Sir, Parliamentary practice has been followed here, and, if I may ask you to look up this printed book "A Selection from the Decisions from the Chair", I would refer you to the ruling on page 48. This was again for discussing a question of privilege:

"I go further and say that if it is the intention of the Honourable Member from Bihar to raise the question of privilege—and I do not know how far the question of privilege does arise in this case—I should say at once that no discussion on a question of privilege can take place on a motion for adjournment. I lay it down definitely and unambiguously. Under these circumstances, I regret I must disallow the motion for adjournment."

That ruling, Sir, is perfectly clear.

My second point is this. Assuming this motion could have been properly made. I submit, Sir, that it is too late, because the incident, whatever it was, happened while the Assembly was not in session and notice should have been given on the first day. As a matter of fact, a notice of motion for adjournment was given on Monday last, not on the ground of privilege, but on another different ground, and that was disallowed by the Governor General: but the facts on which this motion is going to be argued, if it is not disallowed, existed before this Assembly commenced its sittings on the 3rd February. There is no reason whatsoever why a notice of motion for adjournment should have been given

[Sir Nripendra Sircar.]

so late as today or yesterday afternoon. In this connection, Sir, I would draw your attention to page 24 of the same book:

“My predecessor in office, the Honourable Mr. V. J. Patel, gave the following ruling:

“I am clearly of opinion that the matter is of great public importance. But I am not convinced that the matter is urgent. I should have certainly admitted this notice of motion for adjournment if it had come to me on the 18th August. The decision proposed to be questioned was arrived at on the 15th August. It was published in the newspapers on the 16th or 17th August, as Sir George Rainy has said, and there is absolutely no reason why the Honourable Member should not have given a notice of motion for adjournment on the 18th.”

Then, the President goes on:

“In the present case also, the House met for the first time on the 7th July, and notice of this motion was handed to me only on the 12th. As I have already stated, all these facts were within the knowledge of Honourable Members when the House met on the 7th July.”

Mr. President (The Honourable Sir Abdur Rahim): There are other rulings to this effect. Are there any other rulings?

The Honourable Sir Nripendra Sircar: These are the only rulings.

Mr. President (The Honourable Sir Abdur Rahim): The first objection taken to this motion is that the question of a breach of privilege cannot be discussed on a motion for adjournment of the business of the House. This is clearly borne out by the reference which has been supplied by the Honourable the Leader of the House. May's Parliamentary Practice on page 249 says:

“Matters arising out of the debates of the same session, or the terms of a bill before the House of Lords, matters of privilege or order . . . cannot be submitted to the House under this standing order, and as on other motions for the adjournment of the house matters involving legislation cannot be discussed.”

This is the practice of the House of Commons, and I have no hesitation in following what is laid down in May's well-known book.

The second point is that notice should have been given or the leave of the House should have been asked for on the very opening day of this Session. There was another adjournment motion relating the same subject, i.e., the demand of security from the *Abhyudaya* which came up two days ago, and it was withdrawn. That motion was based on different reasons, but all the same there is no good reason whatever why this motion should not have been made on the very opening day of the Session. On both these grounds, therefore, I rule the motion to be out of order.

Mr. S. Satyamurti: It was disallowed by the Governor General, not withdrawn, Sir.

The Honourable Sir Nripendra Sircar: That was disallowed by the Governor General.

CONTROL OF THE ADMINISTRATIVE CHAOS IN THE PUNJAB.

Mr. President (The Honourable Sir Abdur Rahim): Another motion of adjournment of which notice has been given by Mr. K. L. Gauba is that he wishes to discuss a definite matter of urgent public importance:

"The failure of the Government of India to take any steps to control the administrative chaos in the Punjab for months, finally resulting in civil disobedience by two communities. The gravity of the situation is reflected in the statement in the House of Commons yesterday by the Under Secretary of State for India, and the daily reports of arrests."

I should like to know whether it was only what happened in the House of Commons that revealed the gravity of the situation.

Mr. K. L. Gauba (East Central Punjab: Muhammadan): Sir, as regards the situation, where arrests are taking place day to day, the urgency

Mr. President (The Honourable Sir Abdur Rahim): It has been going on for some time.

Mr. K. L. Gauba: Yes, Sir, it has been going on for some time, but the position as to whether a motion can be moved as a motion of adjournment and as of definite public importance is this. Where the situation is deteriorating from day to day, in a sense a fresh cause arises each day, and the right to move a motion of adjournment continues from day to day.

Mr. President (The Honourable Sir Abdur Rahim): I want to know, was it grave enough on the opening day of the Session or not?

Mr. K. L. Gauba: It is graver today than it was on the opening day. Further, I submit, that the gravity of the situation was admitted in the House of Commons yesterday by the Under Secretary of State.

Mr. President (The Honourable Sir Abdur Rahim): I must rule this motion as being out of order. It is not urgent in the sense understood in the rules: it ought to have been moved on the opening day of the Session; and, according to the previous rulings of this Chair, it is not urgent now; and, therefore, the motion cannot be sustained. I rule it out of order.

ELECTION OF A MEMBER TO THE SELECT COMMITTEE ON THE AMENDMENT OF STANDING ORDERS.

Mr. President (The Honourable Sir Abdur Rahim): I have to inform the Assembly that upto 12 noon on Wednesday, the 5th February, 1936, the time fixed for receiving nominations for the Select Committee on the Amendment of Standing Orders only one nomination was received. As there is only one vacancy, I declare Mr. G. H. Spence to be duly elected.

THE INDIAN CRIMINAL LAW AMENDMENT (REPEAL) BILL.

Mr. President (The Honourable Sir Abdur Rahim): The House will now resume further consideration of the Bill to repeal the Indian Criminal Law Amendment Act, 1908.

[Mr. President.]

The House will remember that a point of order was raised on the last day of discussion of this Bill at the last Simla Session, namely, whether the provision of the clause of a Bill is open to general discussion when no amendment is proposed. There can be no doubt that it is, though the Chair will not allow undue repetition of what has been already urged on the motion for taking the Bill into consideration. This is in accordance with the usual practice. Doubt was thrown on the position only by a hasty misreading of a paragraph at page 403 of May's Parliamentary Practice which merely points out that a Member cannot speak generally upon a clause until after the question is proposed "that the clause stand part of the Bill". The question is:

"That clause 2 stand part of the Bill."

Mr. Sri Prakasa (Allahabad and Jhansi Divisions; Non-Muhammadair Rural): Sir, in supporting the motion that clause 2 of this Bill should stand as part of the Bill, I have to make a few observations. I have followed with all the care and attention, that is due to them, the speeches that have been delivered from the other side in the course of the debate on this Bill. I will confess that I felt as if I was wandering in Alice's Wonderland when various noble Knights from the opposite Benches were speaking. When the Law Member went on reciting case after case endlessly of what he thought were signals of danger in front of the country, I felt that he was going down with Alice in that well that had no bottom; and, when it came to Sir Abdul Halim, I felt that he was swimming in a pool of tears of his own creation. And when it came to the Home Member, I felt I was overhearing the conversation of Fury and the Mouse. No doubt, you, Sir, and other Members of this House will recollect the famous lines:

"Fury said to a Mouse
That he met in the house,
'Let us both go to law :
I shall prosecute you.
Come, I'll take no denial;
We must have a trial :
For really this morning
I've nothing to do.
Said the Mouse to the cur,
'Such a trial, dear Sir,
With no jury or judge
Would be wasting our breath.'
'I'll be judge
I'll be jury,'
Said the cunning old Fury :
I'll try the whole cause
And condemn you to death."

The Government of India seem to be carried on in much that spirit, and the Government have a wonderful ally in Sir Abdul Halim. Sir Abdul Halim seems to be very nervous of even nursery rhymes. You will remember that he quoted a Bengali nursery rhyme beginning with "ak, dui, tin" (one, two, three), and ending with "das, aygaro, baro" (ten, eleven, twelve). I do not know whether Sir Abdul Halim was ever a child—probably he was born a full-fledged gentleman. But I should ask him not to deprive the children of his province of innocent nursery rhymes. I am sure

Mr. President (The Honourable Sir Abdur Rahim): It is getting too personal.

Mr. Sri Prakasa: I hope that you will permit me to say that nursery rhymes are not always very evil things. I am sure, Sir Henry Craik himself, when he was a young child, would have repeated with gusto the famous nursery rhyme which runs something like this:

"Fa, fi, fee, fo, fum,
I smell the blood of an Englishman,
Let him be alive or let him be dead,
I shall grind his bones to make me bread."

And nobody in England ever thinks of prosecuting either the author or the repeater of those lines, under section 124-A or section 153-A. I hope that innocent amusements will be permitted by Sir Abdur Halim. He seems to be so obsessed with his particular nursery rhyme of "ak, dui, tin" (one, two, three), that I understand he has repeated it all the way from the Round Table Conference in London to the Legislative Assembly in Simla.

I should like, Sir, to assure the Honourable the Law Member that the Bill before the House does not seek to abolish all laws against murder, dacoity and other such acts. What the Bill seeks to do is to suggest to Government to utilise the ordinary law of the land for all those purposes. The ordinary law of the land is powerful enough, and no special law is needed at all. . . .

The Honourable Sir Nripendra Sircar (Law Member): I rise to a point of order, Sir. I think you ruled the other day that we cannot discuss the general principle of the Bill over again when dealing with these clauses. My Honourable friend's proposition is that he is supporting sub-clause (2) of clause 2 which is:

"All proceedings and prosecutions pending on the date of the coming into force of this Act shall be deemed to be withdrawn",

and I ask for your ruling, Sir, whether it is relevant now to discuss the whole of this Bill, because you ruled the other day. . . .

Mr. President (The Honourable Sir Abdur Rahim): The Chair thought the whole clause was under discussion.

The Honourable Sir Nripendra Sircar: You ruled on the last occasion, when we were discussing the whole clause, that there should be no repetition.

Mr. President (The Honourable Sir Abdur Rahim): There should be no undue repetition by quoting the arguments already advanced.

Mr. Sri Prakasa: I am not repeating the arguments, Sir. After all, any speech must have some introduction, before coming to arguments, and, I hope, when I came to them, the Honourable the Law Member will have a pleasant time. I was only suggesting, Sir, that the ordinary law of this land was already powerful enough to enable the Government to do anything it liked; and, if special laws had really been necessary,

[Mr. Sri Prakasa.]

then there should have been no trouble in the land at all after those special laws had been passed. This special law, which we are now seeking to repeal, was passed as far back as 1908, and all the 58 occurrences which the Honourable the Law Member recounted with so much gusto, occurred after 1908. Evidently, the law has helped rather than hindered the perpetration of that sort of crime, of which the Honourable the Law Member is so nervous. My contention is that we should entirely depend upon the ordinary law for all contingencies. Government might perhaps say that, despite the ordinary law, thefts go on occurring. That is exactly what I also want to say. We take risks. We do not want to make any special Acts, because a theft has taken place in the Honourable the Law Member's house. We want to depend upon the ordinary law. And, therefore, we also want to depend upon the ordinary law to deal with murder or dacoity, whether I am shot or he is shot.

The great trouble about this law is that the executive is authorised to declare any association it dislikes to be unlawful and proceed forthwith to imprison members of that unlawful association and put them in jail for long periods. That method is all that we want to abolish. I want to assure the Honourable the Law Member that I am not less interested than he is, in the preservation of peace in this country; and, therefore, I cannot be accused of being entirely irresponsible. If we depend upon the ordinary law, we shall be able to achieve all the purposes that this special law seeks to serve and also save the Government from the bad name it always gets whenever it places a special law on the legislative anvil. Sir, in our earlier days, at school and college, we were all taught that separation of powers was the greatest bulwark of the subject's liberty; but here in India, Sir, there is no separation of powers at all. The executive is supreme; and the judiciary and even the Legislature are all under its thumb. The clever device of uniting the functions of the executive and the judiciary leads to the executive securing any conviction it likes. Take, for instance, Sir, section 124-A of the Indian Penal Code. That is a part of the ordinary law. The Government at headquarters send down instructions to the District Magistrate to ask for permission to prosecute a particular person or paper that is supposed to have committed the heinous crime of sedition. The District Magistrate has no option but to ask for this permission. The case I am giving is from my personal experience, Sir, because the thing happened with me. The District Magistrate, of course, asked for this permission, which was readily granted, because the Government themselves had asked the District Magistrate to ask for this permission, and, as the District Magistrate himself is the judge in such cases, a conviction followed, naturally. No District Magistrate who values his service will dare to do anything but convict a person who has already been convicted by the Government at headquarters. And, Sir, this madness about strengthening the hands of the executive is so great that, throughout the fat volumes of the Joint Parliamentary Committee's Report, and its child, the Government of India Act, the one and constant refrain is that we must strengthen the executive. The people are for the executive, and not the executive for the people. Ordinarily one should think that Governments exist in order that the people may be happy. Here it seems that the people exist in order that the Government may be happy.

Gentlemen from the opposite Benches have told us that they were afraid of terrorism. Their conscience must be very guilty indeed when they are always afraid of some one coming and shooting them.

I P. M.
I am not so afraid. Why should they be afraid unless they are really guilty? Anyway, I am going to tell the Honourable the Law Member how his Government produce terrorists. The case of Azad was mentioned in this House. My friend, Pandit Krishna Kant Malaviya, got into trouble both inside and outside the House, because he ventured to mention that case. The Honourable the Law Member dismissed this youngman in one of his speeches with almost a sneer. I am going to tell the House the story of Azad, because I knew this boy as a student in Benares. In 1920, when he was but a child of 13 or 14, he joined in the then Civil Disobedience Movement and picketed a liquor shop. The District Magistrate of Benares ordered the boy to be given 12 stripes. This boy was awarded these 12 stripes in jail. The result was that the iron went into his soul. Whatever Englishmen may think about caning—and I understand that they revel in being caned in their schools—here in India, rightly or wrongly, we regard caning as a very humiliating process; and, I am sure, the Honourable the Law Member will also regard it as not a very desirable thing to resort to. In the jail, the man is stripped naked and stripes are administered on his buttocks. That makes the thing particularly degrading, specially because the caning is administered publicly. And this boy decided that he was going to turn a terrorist. I used to meet him now and then as he flitted across Benares, after this incident. I argued with him; I pleaded with him; I said: "Azad, give up this folly. Take to other ways. Let by-gones be by-gones. Pardon the persons who inflicted this suffering on you; pardon them in the spirit of Christ who said, 'Father, forgive them, for they know not what they do'." But he was wild, and the result was that he had a terrible career. I agree with my Honourable friend, Pandit Krishna Kant Malaviya, that if a boy of that spirit had been in a free country, he would have risen high in the military service. I am prepared to say that, if the Commanders-in-Chief of India, from Clive to Kitchener, had not had the opportunities that they had, they would have lived and died much like this boy did. It is no use condemning persons after first depriving them of all opportunities to show their genius and their capacity for public service. This is the way that terrorists are created. I knew only one terrorist in my life and that was this young boy. He was shot to death in a cowardly manner in a public park in Allahabad. I know no other terrorist, but I can understand that most, if not all, terrorists are produced in this manner; and being human, I cannot but sympathise with the psychological processes by which these mad persons are created by the gentlemen opposite.

The second thing that Honourable Members opposite are afraid of is Communism. Russia seems to be on the brain of this Government. It has been so from all time; whether the Czar ruled there or Stalin rules there, this Government will always be afraid of Russia. I do not understand why that is so. Formerly there used to be a forward military policy. Why? Because they were afraid of a Russian invasion by arms of our borders. Today, there is another type of forward policy; for today they are afraid of the Russian invasion of ideas. But the fact is that if any two countries in this world are alike, it is Russia and India, both in their traditions, in their aspirations, in their religious fervour.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): Religious fervour! God help us!

Mr. Sri Prakasa: and in the temperaments of the people. Any decent Government of India would want to create friendly relations with a people like that, instead of shutting them out so cruelly and so hopelessly as this Government tries to do.

Then, Sir, the third thing that the Government pretend to be afraid of is communalism. This communalism is their own creation, and it is all pretence on their part to say that they are afraid of it and are anxious to stop it. Long, long ago, Sir John Strachey, who, I understand, has held every important office in India from Governor-General to Assistant Magistrate, wrote in his book, "India—Its Administration and Progress", referring to the communal situation:

"This need not blind us to the fact that the existence side by side of these hostile creeds is one of the strong points in our political position in India."

Sir Abdul Halim Ghuznavi (Dacca cum Mymensingh: Muhammadan Rural): When was that?

Mr. Sri Prakasa: I am sorry I do not remember the date; but if my Honourable friend will consult me in the Library in the recess period, I may be able to find it out for him. Any way, he can go through the book himself, instead of disturbing me. This communalism was created by a political bigamist. This was the first Lieutenant Governor of Eastern Bengal. Sir Bampfylde Fuller declared publicly that he had two wives, one Hindu and one Muslim; and as the Hindu one was rather troublesome, he was leaning towards the Muslim wife. I do not know that, after having played the game between Hindus and Muslims, they will not proceed with Muslims and Sikhs as they seem to be already doing in the Punjab; and, later, find out some other community that numbers a little less, and pass on the trouble perhaps to Sikhs and Parsis.

Sir Cowasji Jehangir: We are not in the Punjab.

Mr. Sri Prakasa: So, Sir, it is all eyewash to say that they are afraid of this "ism" or that "ism". I shall proceed later on to show exactly what is in the mind of this Government; but, before I do that, I should like to say how exactly this Act has been worked so long. In my province, under this Act, not only were Congress organisations banned—and I shall not complain of that, because the Congress was openly at war with Government and we deserved their ban and they deserved our kicks; but let us look at the way Government behaved with other institutions. I, first of all, refer to the *Kashi Vidyapith*. It is a national institution in Benares founded by the great philanthropist, my friend, Mr. Shivaprasad Gupta. He set aside a property worth ten lakhs of rupees to build this institution; and one of the conditions of that gift is this,—and I want the House to pay special attention to it—that even when India gets Swaraj, this institution shall not allow itself to be controlled by any Government, nor shall it accept any financial assistance from any Government. His idea very rightly is that education should be free of all Government interference; in other words, of all Government control and Government assistance. Now, this Government always make fun of the

products of their own universities. They laugh at B.A., LL.B.'s. They scowl at failed F.A.'s. And when we have an institution in the country that gives education free of all Government control, makes their own syllabus and draws up its own lines of instruction, the Government look at it with suspicious eyes. I am closely connected with that institution, being its Vice-Principal. Two C.I.D. men are always at our gate. Every third day our premises are searched; and only this morning I read in the papers that it was searched again yesterday, no doubt much to the delight of the Honourable the Law Member and the Honourable the Home Member. During the 15 years of its existence, the institution must have been searched 150 times; and never was any incriminating thing found. But the whole irritation of the Government seems to be due to the fact that there should be any people in the country who have the hardihood to build up an institution independent of Government.

When an institution in India depends upon Government assistance and goes abegging to Government doors, it is kicked about. "Why don't you stand on your own legs?", say the authorities. "Why are you coming to ask for assistance to us?" And when an institution determines to stand on its own legs, it is suspect. And so, in accordance with this Act, which we are seeking to repeal, the *Vidyapith* was declared an unlawful association and closed for two years and a half for crimes and misdemeanours, of the nature of which I, at least, am as ignorant as the man in the moon. Our boys do not hanker after Government service. Therefore, they are saved many kicks. They do not want to start very high. They are not persons who would not be satisfied with less than Rs. 250 a month as Deputy Magistrates or as Assistant Superintendents of Police. They know the economic condition of the country and they are quite satisfied to start life with Rs. 40 or 50 and do national work of all sorts; but Government would not allow this institution to flourish, and for two years and a half they closed it. I request the Law Member, whom I respect as an elder, to go into the facts of this case and to see if he cannot help to save us from the barbarous attacks of local officials. When they do not find anything on our premises during their searches, they catch hold of our boys at random and send them to jail for four or five months at a time. I protested against this to the District Magistrate of Benares. He said: "If they are innocent, let them be in jail for two or three months. Where is the harm?" These are his very words. That is very nice indeed. There would be much harm if any such trouble came to that District Magistrate, even if he were innocent! This is the mentality of these gentlemen in the districts.

Sir Cowasji Jehangir: Was he an Indian or European officer?

Mr. Sri-Prakasa: Indians and Europeans in Government service are all alike. Very often Indians are worse. I will come to that later. I have got some papers about an Indian Magistrate.

Then, Sir, another thing that was done was the declaration of a school near the premises of the *Kashi Vidyapith* as an unlawful association. It was an independent school. It was run by its own committee. The *Kashi Vidyapith* gave it financial assistance, because it was also run on national lines and declined all Government assistance.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member had better continue his speech after Lunch.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

Mr. Sri Prakasa: Mr. Deputy President, I had just finished relating, as the House rose for lunch, the sad story of the action taken by Government, under the Act we are seeking to repeal today, against the *Kashi Vidyapith*, an educational institution having no other ideal but to give proper education to Indian youth in order to make them independent of Government service and enable them to serve their country as they grow into manhood. I also said that in the neighbourhood of that institution existed a school. It was housed in a rented building and received no assistance from, and allowed no control by, Government but was financially assisted to some extent by the *Kashi Vidyapith*. The District Magistrate, all-knowing person that he was, *declared the Gandhi Ashram* as an unlawful association under this Act, and *seized this little school*. So far as the *Kashi Vidyapith* was concerned, the staff and the students were turned out, and the large premises, humming with life, were reduced to the status of a grave, where just two constables resided in their own grandeur and glory for two years and a half. This school was also seized. I wrote to the District Magistrate immediately telling him that that was not the Gandhi Ashram, but a boys' school. He said, his information was that it was the Gandhi Ashram, and, therefore, it must go: and at midnight some 40 little children were turned out in the month of January. It was lucky, humble as I am, that my little house happened to be near there; and all these forty little children got shelter under my humble roof. Those school premises also were notified and put under the control of a couple of constables. The humanity of the proceeding was above all praise! The District Magistrate, himself tucked under comfortable quilts, sends out forty little children at midnight in January to pass the night in the streets or anywhere they please, because His Majesty's empire was in danger! The Gandhi Ashram proper, Sir,—such is the irony of the situation,—went on, luckily for us all, functioning merrily as a *khaddar* shop right in the heart of the city all the two years and half that this little school was banned as the “Gandhi Ashram” under this Act, and its premises put in charge of the local police.

Then, I come, Sir, to the Prem Maha Vidyalaya of Brindaban. This Prem Maha Vidyalaya is also an independent educational institution seeking to give instruction in technical subjects up to the secondary standard. It is a most useful institution founded by one whom most of us regard as a great man, whatever the opinion of the Honourable the Home Member about him may be, Raja Mahendra Pratap, who set apart the major portion of his property in order that this institution should flourish. While the *Kashi Vidyapith* and the Kumar Pathshala have come back to their rightful owners, the Prem Maha Vidyalaya still continues under ban, in accordance with this law. When questions are asked of the Honourable the Home Member as to why the institution continues to be still banned, he says its activities are dangerous to the

public peace. Sir, for three years and a half it has not existed, and still its activities are dangerous to the public peace. Not satisfied with that, the Honourable the Home Member, with the help of his moucle, has also discovered a rifle in the possession of another institution that also continues to be similarly banned, namely, the Hindustani Seva Dal. Sir, while every British boy is taught how to drill, while every Englishman is taught how to walk erect, we are not only condemned to a sort of slouchy existence, to an inert life, but whenever anyone of us wants to drill, there is a flutter in the dovescots, and everybody feels that an army is on its march to Delhi! The Hindustani Seva Dal thus continues under the ban; and, despite all our attempts to have a *darshan*, a sight, of that wonderful non-existent rifle, the Home Member is still searching for it; and, because of this supposed rifle, the Hindustani Seva Dal must continue to suffer.

Then, Sir, let us also see how this Act has been worked against individuals. I take the case of Pandit Motilal Nehru—no small man that, Sir, as I hope even the Honourable Members opposite will also recognize. Overnight the Working Committee of the All-India Congress Committee is declared an unlawful association; and at 3 o'clock in the morning Pandit Motilal is arrested in his bed, marched off to prison and confined there. The case was so scandalous that an advocate of the High Court brought this matter to the notice of the Chief Justice. There was a case and the Chief Justice said that the mere declaration of a body as an unlawful association does not make all its members fit for the prison; time must be given for the persons associated with such an association to dissociate themselves from it if they should so like; and he quashed the sentence. I know that as the Chief Justice himself remarked in the course of his judgment, Pandit Motilal Nehru did not stand to gain much because the Government had taken care to charge him under another section of the law as well, under which the conviction stood.

I will proceed to give another case; and that is that of Mr. B. P. Sinha who was convicted to a year's imprisonment in Benares for activities connected with the All-India Congress Committee, which, curiously, was never declared an unlawful association in 1932. It was represented to the Deputy Magistrate who was trying this case—and if my Honourable friend, Sir Cowasji Jehangir, were here, I would have told him that this Deputy Magistrate was an Indian,—that the All-India Congress Committee had not been declared unlawful. But he said he had a slip of paper from the District Magistrate, who again was an Indian, to the effect that it was so declared, and, therefore, the accused must be punished. Well, Sir, the father of this gentleman took up the case to the High Court and the High Court set aside this conviction. But all cases cannot go up to the High Court. Our poverty is a sufficient guarantee to this Government that most of us will suffer rather than seek justice which is impossible to attain unless we have a long purse. I may also mention that in Gorakhpur, which is one of our poorest districts, heavy fines were imposed on the village people, because they belonged to the Congress which had been banned under this Act. Men who had perhaps never seen Rs. 25 or Rs. 30 in a lump at one time, were sentenced to fines of one thousand and Rs. 1,100; and these fines were forthwith sought to be realised by depriving their mud huts, of their roofs and of their households, of utensils.

An Honourable Member: This is like an Indian State.

Mr. Sri Prakasa: And this is a super-Indian State! What do you think it is? Do you think it is England? Our troubles do not end there. Gentlemen in charge of jails keep a particularly sharp eye on us and I will give you one very pathetic instance which occurred within my knowledge. To me it appeared to be very pathetic, however different it may look to the stern rulers of the land sitting opposite, who, in the name of so-called duty, must sacrifice all sense of humanity!

A Bengali lady was sentenced under this Act to a certain number of months of rigorous imprisonment. She had a child, and the date of birth given in its horoscope showed that it was four and a half years old. The child went with the mother to the prison, because children under six years are allowed to share imprisonment with their mothers. One day, suddenly I learnt that the child had been taken out of the jail by the kindly Superintendent—again an Indian—and nobody knew where the boy was. I rushed along here and there to find out where the child was. The family was given no information; the brother of the lady and her son were searching for this boy everywhere. They knocked in vain at the jail gates to find out his whereabouts. No information was vouchsafed to them. At last I went to the jail gate—I assure the Honourable the Home Member, if he is smiling at the story and not at any joke that he might have cracked with his neighbour, the Honourable the Finance Member, that I am speaking of facts within my own knowledge. I spoke to the Superintendent and asked him about the boy. He entered into a long and irrelevant conversation, which, if he had indulged in in this House, he would have been pulled up; and at last he vouchsafed to me the information that he had sent the boy to an *anathalaya*, that is, an orphanage, through the District Magistrate. I asked him why he did so, especially when the woman was to be released from the jail only in another fortnight or three weeks. He replied that the rule was that no child over six could remain in jail with his mother? I said: "Surely when you had once taken the boy in, you could have stretched the law. There is the horoscope of the boy which shows that it is not yet six years." But, of course, the I.M.S. Superintendent knows more about the age of a boy than even a birth certificate. At last, I found the child in the *anathalaya* and rescued it with great difficulty, because the people in charge of the *anathalaya* said that the child had been sent to their orphanage by the District Magistrate and I must go to the District Magistrate to seek his permission to return the child. Well, Sir, we have to go to many places in this life, and, when a thing like that happens, one has to go to places much worse than the house of a District Magistrate. At last we rescued the child. This is the way in which this Act has been worked, and, if I were a part of such a Government, I should be ashamed of myself.

The basis of modern jurisprudence seems to be that "the King, *i.e.*, the Government, can do no wrong". Well, so far as I understand the ancient ideal of this land, it is that the King or Government alone can do wrong, and the subjects can do no wrong. Here, in India, with all their pretensions about responsibility, I want to know how are persons in authority responsible at all? What is the meaning of responsibility? Responsibility, if I understand English at all, means that a person is to be punished if he fails to fulfil the duties that have been placed upon him. Are any persons opposite ever punished for anything they might do or omit to do? In India, the consequences of the faults of the officials as well as of the non-officials fall on the non-officials alone. But that was not so in ancient India. I am sure, the Honourable the Law Member, with his knowledge

of ancient as well as modern jurisprudence, with all the learning that he undoubtedly possesses, and, at the same time, with all his patriotism and self-sacrifice which I acknowledge, whether it is acknowledged by others or not, I am sure, he will be able to agree with me when I say that in ancient India the King was held responsible for anything that went wrong. I will give you a story. It is related that, in the time of Shri Rama Chandra, there occurred some deaths of infants. People gathered at the King's gate. In those days, you had no necessity to sign your name in the visitors' book or wait for a letter from the Private Secretary. The people went to the gate and clamoured to see the King. They insisted on an immediate audience, and the King had to give it. The King came out and asked them what the matter was. The people said that their children were dying; the King must have sinned; he must be to blame for the people's misfortune. Well, Sir, what happens here? Nobody in high office is to blame if the children in the city die in large numbers. They will say that it is their own fault. Why are they born? Or why are their parents careless in bringing up their children? The present officials will say; it is none of our business. But, in those days, it was quite different. Shri Rama Chandra said: "I must be to blame". Then he set out searching for the Health Officer of that town and he found that that wonderful man, instead of attending to his duties, was praying to and "worshipping" God with shut eyes and motionless body. Worshipping God is no fault, if you believe in Him; but the best way of worship is to do your duty rightly. The King said to the Health Officer; "It is no business of yours to go on worshipping God in this fashion, and neglect your duties for which you are paid. You are appointed to look after the drains and keep the town clean and healthy". The Health Officer was engrossed in his devotion to God, and did not hear what the King was saying. The King took out his sword and cut off the head of the Health Officer who was engaged in falsely worshipping God and neglecting his true duty. I think that served him right. But what happens now in this country? Whatever disaster may happen to the people, no trouble comes to those who are in charge of the administration of the country. If I were the Government, I should say to those whom I appoint to the various districts: "If there is any trouble, you will stand to blame; if there is a Hindu-Muslim riot, you will be sacked; and if there is a murder, you will be hanged". (Laughter.) And if a couple of District Magistrates were hanged without charge or trial on the nearest tree after a Hindu-Muslim riot, you will never hear of any more riots. (Laughter.) That is the cure for this ill. Honourable Members there may laugh; but if they will only try this method, they will see that they will succeed; and if they do not succeed, I will offer my own life in expiation. I feel that officials in India enjoy a tremendous amount of prestige and too much freedom from all liabilities for their actions. I think it is time that they should be pulled up. Instead of that, you have all these laws in order to protect the official as against the tax-payer. I say, why should not the officials also undergo the risks of their profession? Have you any special laws for the protection of the zamindars, bankers, merchants and others? Are they also not occasionally hurt and even killed by those who feel that they have a grievance against them? You surely apply the ordinary law of the land; but when it comes to officials, you suddenly wake up and you want special protection for them. I do not understand how their lives are more valuable than our lives; why they should be exempt from running the risks of their profession any more than other people? But such is the dispensation of this Government that its servants are the most important people in the world and must

[Mr. Sri Prakasa.]

be saved from all harm and given all the conveniences and comforts of life at all costs. What is the percentage of officials killed during the last few years?

The Honourable Sir Henry Craik (Home Member): What has this got to do with the Bill?

Mr. Sri Prakasa. It has got everything to do with the Bill, because, whenever you find that some association is getting rather uncomfortable for your officials you put this law in operation. That is what it has got to do with the Bill. I thought the Honourable Member understood that much. I ask, what is the percentage of officials that have been hurt or killed during the last few years? Over a crore of officials must have functioned and only a few have been killed; while, in other professions, you find a far larger number of persons killed and maimed. I do not see what is the use of making special laws for the protection of your officials.

I shall now proceed to give a resumé of the law as it stands which can be used for the suppression of all the "isms" that are anathema to the Government opposite. What exactly do the Government want? They want that they should have the power to kill anybody they like and whenever they like to do so; they want the power to imprison anybody they like for as long a period as they like and whenever they like to do so; they want to inflict physical suffering on anybody who has incurred their displeasure; they want also to forfeit properties. I say that you can do all this with the help of the ordinary law, and I will tell you how. You declare under section 144 of the Criminal Procedure Code that a particular assembly is unlawful, and, if the assembly does not disperse, you shoot. In Benares, it has so happened; three men lost their lives and over a hundred got many bullets in their bodies, because a particular assembly was declared to be illegal and the members thereof did not immediately disperse at the bidding of the District Magistrate. Therefore, you see you can kill if you are so minded and no harm will come to you. The District Magistrate concerned became a Commissioner, and, later on, an M. L. A. also. So no harm came to him. If you want to shoot any individual, you may safely do so, and if there is any case you can say that you did so in self-defence, and you will hear no more about it.

Then, Sir, if you want to imprison, sections 107-110 of the Criminal Procedure Code give you all the powers that you need. My friend, Mr. Owen, whom I do not see in the House this Session, speaking at the Delhi Session last year, said, that these sections were very properly employed, and gave himself a certificate that they were so done. He said that section 107 was only used against bullies. Now, Sir, a remarkable example of a bully you will find in the present Member of this Assembly from the Seven Cities of the United Provinces Non-Muhammadan Urban Constituency (Dr. Bhagavan Das). Usually he is regarded as an elderly gentleman, respected as a philosopher unable to harm anyone; but he was sentenced to a whole year of imprisonment under section 107. Such is the bully about whom Mr. Owen felt so nervous! Then, there is section 109 which he said was used against habitual seditionists. Of course, "sedition" is a very wide word. In taking action under section 124-A, Indian Penal Code, you have to get sanction from Government; under section 108, Criminal Procedure Code, you catch hold of a man and ask him to show

cause why he should not be sent to prison. And if he shows some cause, you simply do not accept it and send him to prison. Now, sections 109 and 110 are such that you can send anybody to imprisonment for long terms at your sweet will. You have only to say "bad livelihood", and off he goes; I have a number of cases here where respectable persons like Muniswara Avasthi, Surendra Pandey, Ajay Kumar Ghosh, Satgur Dayal Avasthi Birendra Pande and others of Cawnpore, and many from Meerut, Dehra Dun and Allahabad as well, persons who were educated and in proper recognised professions, were sentenced to terms extending to two and even three years under these sections of the ordinary law. So, Sir, I say that you have no need of this Criminal Law Amendment Act of 1908 at all. You have simply to use these wonderful sections of the Criminal Procedure Code and you get what you want and we get what we deserve.

The Honourable Sir James Grigg (Finance Member): Hear, hear.

Mr. Sri Prakasa: Yes, I say "what we deserve" deliberately and knowingly, because, when a people have sold themselves into slavery as we have done, no wrong that can be done to us is too great.

You may refer to the Evidence Act. I know what the Evidence Act is. All that fat volume of the Evidence Act is put aside, and the Magistrate's dictum, "I believe so and so" or "I do not believe so and so" is enough! I have been through the mill myself, and I know something about it. When a person is put on his trial and a friend comes to give evidence in his favour, the Magistrate says: "This is interested evidence, because so and so is a friend of the accused"; but when a policeman comes and gives evidence against him, of course he is not an interested person at all! Why should a policeman speak a lie? So off the man goes to jail. You see all that at very close quarters in jails, at least in my province; I do not know about other provinces.

Sir, I have already referred to the ordinary law allowing the judiciary and the executive to be united, and so the man in the
 3 P. M. dock has very little chance of being saved. I have known of a Deputy Magistrate who has come to me after delivering a very harsh judgment saying with tears in his eyes that though the evidence was all against the prosecution, he had to convict because he had orders from above. In another case, Sir, somebody was interested and saw this man; and he said "Of course, I am going to do justice in this case: I have no orders from above. This is not a political case". So, you see, this is how the judiciary works. I was rather interested in some of the reminiscences of Sir Tej Bahadur Sapru of his days as a Law Member here. Lord Reading was the Viceroy and his attention was drawn to some serious breach of justice on the part of a Sessions Judge.

The Honourable Sir Henry Craik: What has this got to do with this Bill?

Mr. Sri Prakasa: In these reminiscences, Sir Tej Bahadur Sapru says that the then Viceroy asked him: "Is this the usual type of judges in India?" The Honourable the Home Member very rightly asks what this has got to do with this Bill. Nothing at all, but it has to do much with him because he has given himself a certificate of the times when he was a Sessions Judge. I do not know whether Lord Reading was referring to him.

[Mr. Sri Prakasa.]

I say, Sir, that the ordinary law also gives the executive the right to catch hold of any person and put him into jail. When a Governor comes to a town to see things for himself as he says, a number of persons are clapped into jail. I do not know why that is done, but that was recently done in Benares, and the men were let out as soon as the Governor left. Then, roads are closed at the mercy of the executive. I have known of doctors not being allowed to go to their patients because the roads were closed for the Governor to pass in solitary glory. What all that I am saying has to do with this Bill is this—and I have so repeatedly said it that I am ashamed to repeat it again; but I must do it, because my Honourable friend, the Home Member, opposite, refuses to understand the implications of what I am saying—that your ordinary law is strong enough, stout enough, long enough for you to do anything you like, from murder to imprisonment; and you do not need these special laws.

What I say, is not so much in the interest of this side of the House; I say it all in the interest of the other side of the House. Why do they allow themselves to get a bad name when the ordinary law gives them all the powers they want and why do they come to this Legislature and tell the whole world that they are intending to act illegally, unlawfully, arbitrarily? I say, Sir, that I am so much interested in the welfare of this Government (Laughter) that I am anxious that they should get a good name for themselves and leave that name to be worshipped by posterity for ever and a day. Therefore, Sir, my Honourable friend, the Home Member, should be very much interested in all that I am saying and should exercise his great influence with Government to agree to the acceptance of this Bill and start the great game of repression tomorrow under the ordinary law. No one here, lawyer or non-lawyer, will have anything to complain then, because he will always be able to say with perfect safety and with perfect candour that what he was doing was all under the ordinary law.

Sir, the Indian Penal Code and the Criminal Procedure Code are perfect in all their component parts. The persons who are responsible for making these laws had diabolically perfect brains; and I believe that the Commissioners who under the inspiration of Lord Macaulay drafted the Indian Penal Code, themselves say: "We have made the law so perfect that if somebody dips his pen in another man's ink he can be imprisoned for theft." (Laughter.) These laws are so perfect that I am surprised that the Law Department of this Government is not able to help the Government to carry on the administration without the need of special laws. Not only are the executive and the judiciary one, but the Legislature as I have already said, is also under the thumb of the executive. I have the authority of my friend, Mr. James, to say, that in England the Returning Officers are non-officials—Mayors and others. Why is it in India that they are all District Magistrates? District Magistrates have their own bias in matters of elections, and, in my province, of late, they have exercised the bias tremendously. I have got here two orders by the District Magistrate of Hamirpur. For the satisfaction of my friend, Sir Cowasji, I may say that this Magistrate's name is Rai Bahadur Pandit Kamlakar Dube. He is an Indian, I will show you how insidiously they interfere with elections.

The Honourable Sir Henry Craik: What has that to do with the Bill?

Mr. Sri Prakasa: The Magistrate's order reads:

"The applicant helped the Congress in the recent District Board elections and is certainly disloyal. I, therefore, cancel his gun licence." ("Hear, hear," and Laughter.)

Another order of the same Magistrate says:

"The applicant helped the Congress in the recent District Board elections and is entirely disloyal. I, therefore, cancel his licence. Arms and licence to be deposited. K. Dube, District Magistrate, Hamirpur."

In one case, he is "certainly" disloyal and in the other "entirely" disloyal. Sir, recent investigations in Etawah and other places have shown how, in the elections that have just closed, District Magistrates and other officials have interfered in the elections,—so much so that at some places persons who were going to vote for the Congress were not allowed to enter the polling booth at all. It is amazing. I myself was surprised at something that happened under my very eyes. I saw that the Returning Officer ordered the policeman outside to divide the voters according to their votes for the three candidates who were standing for election. I then rushed into the polling booth despite all protests and asked the Returning Officer as to why this was being done. He said: "I know my district"—as though it was his patrimony—"more than you". But I said: "I have resided in this district for the last 400 years at least. All my ancestors have been born here and have died here, and you know this district more than I do!" He said: "I know my district, there will be a regular *gol mal*, a riot, if I do not do this." I replied: "Very well, you go on, do your best." It is time, Sir, that this Government thought of the necessity of at least taking away from District Magistrates the management of elections. But still, so far as that goes, the executive is in power, not only in the matter of legislation here, but also of elections for these Legislatures outside. Of course, here you may talk till you are blue in the face and nothing happens. But even this useless talking the Government do not like; they take care that a certain type of person should not be allowed to come here at all. It is possible that our presence here in this Assembly through the kindness of the Government which was good enough to take away the ban imposed upon us because of the long imprisonments that they themselves gave us under this very Act—our presence here, so to say, under their generous indulgence, has so frightened them that in my province everybody, who now applies to have the ban removed, gets the stereotyped reply: "The Governor-in-Council is pleased not to remove the ban." The executive also can under the ordinary law—and this is what I am pressing again and again for the understanding of my exceedingly brilliant friends opposite—shut up all newspapers. The *Abhyudaya* case is before you. A Member of this Assembly delivers a speech here. It is printed in the official proceedings, which are sold for five annas a copy by the Government Press. He thinks that he should approach his constituents that they may know that he has been delivering a speech in the Assembly, and he translates it and publishes it in his Hindi paper. Down comes the ukase from Naini Tal or Lucknow that, because that speech was published in this paper, therefore a sum of no less than Rs. 2,500 should be deposited; and, if my friend is not able to find this Rs. 2,500 at a moment's notice, he must be a man of straw, and, therefore, he has no need to exist in the society of the present day.

[Mr. Sri Prakasa.]

So, after all that I have said, it should be quite clear to every part of this House that the real conspiracy that exists in this country is the conspiracy of the Executive Council opposite. It is the biggest and the cruellest conspiracy that I think has been known to history. Then, there is another conspiracy, and that is of the highly paid Government servants who, if any, are members of unlawful associations and who are constantly scheming for self-aggrandisement and working against the people from whom they draw their nourishment. Do the Government know that the Indian Police have a paper in my province? It is published either monthly or fortnightly; and it is confidential and contains all sorts of threats to Government that the police will do this and not do that if their salaries are not increased, if their pensions are not increased, if more allowances are not given to them, *ad libitum*. That is not barred. That is allowed. Government permit all conspiracies by their highly paid staff and their wealthy supporters. Big officials, zemindars and merchants can meet without any danger coming to them from Government, however much they may conspire against large classes of their own countrymen. But if *patwaris* and constables started having their own organizations, then Government will come down upon them; and, so far as labour and workers' organisations are concerned, we know how they stand. In my province at least, an order under section 144 is very common when labourers or peasants are going to meet. It is not in the public interest for them to meet.

It seems to me that the present Government have just two ideals; one,—maintain the political *status quo* by keeping the agitator down; and, two,—maintain the economic *status quo* by keeping the poor man down; and because they want to do all this, all these laws have become necessary for them. My Honourable friend, the Home Member—and my constant reference to him may be taken as a compliment rather than as a mark of hostility—has on more than one occasion described the terrorist as Public Enemy No. 1, and the Communist as Public Enemy No. 2. He is an English gentleman, full of the traditions of that fine race, and, therefore, in accordance with the conventions of polite society, he has always excepted present company. You always say in polite society: "present company always excepted". Otherwise I have no doubt that he would have gone on and described us, on this side of the House, as Public Enemy No. 3. But I am not English, and what is better, I am no gentleman; and, therefore, I am not going to except present company. I will say straight off that Public Enemy No. 1 is Imperialism, represented in this House by the Law Member on the one hand and the Order Member, in other words, the Home Member, on the other. Public Enemy No. 2 is Capitalism, represented here by the three other Members of the Executive Council, those for Industries, Commerce, and Finance. And Public Enemy No. 3 are all the gentlemen behind—the Bureaucracy, always ready to sing in accordance with its master's voice and act in accordance with its master's orders. You know, Sir, and I know that the gentlemen there may be Back-Benchers here, but they are very much the Front-Benchers in their own districts. There is no one in the district equal to them at all, and they can do or undo anything they like in their districts. Mr. Griffiths—I am sorry if I have to say anything against him in his absence, but I am not to blame if he is not here, he has to thank those who nominated him and sent

him away—was more or less polite here; but we know of his exploits in his own district; and his continuous orations in durbars and his action against his and my friend, Mr. Amarendra Nath Chattopadhyaya, there. Now, these are the three enemies we have to encounter; and, if any law is brought before this House for the suppression of these, it shall have my most fervent support.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

The Commerce Member, speaking on this Bill at Simla, said that the Act did not interfere with the activities of honest men and that these honest men could carry on their activities without any let or hindrance. By 'honest' I believe he meant the sadists and masochists—persons who inflict suffering and those who allow suffering to be inflicted on them; in other words, the Government Officials on the one hand, and labourers, scavengers, peasants, workers, *khansamas*, etc., on the other, who, if they have not enough to eat, must die quietly of starvation. Those, however, who are not satisfied with this scheme of things, those who seek a better ordering of society, are faced with this Act. Sir, society does need not only those who suffer and those who inflict suffering, society also needs those who show to the unfortunate the way out of suffering. I remember my friend, Mr. Clow's sarcasm yesterday—and I scarcely expected it from him—when he said that Mr. Joshi and others unnecessarily teach persons what is good for them, and it is not a fact that those persons themselves want what Mr. Joshi thinks what they should want. I feel, Sir, that the world does not only need persons who just suffer quietly, but it also needs persons like Mr. Joshi, to go and tell them that they should not suffer quietly but should seek redress of their wrongs. If by honesty the Honourable the Commerce Member meant only those who suffer uncomplainingly and those who inflict suffering wantonly, I should like to leave all honesty to him and join myself with the large band of 'dishonests' that are in this world.

The Honourable Sir Muhammad Zafrullah Khan also said that the activities of some of these associations that were declared unlawful interfered with the legitimate discharge of their duties by various persons—shopkeepers and others—who were forced to observe *hartals* on particular days. I was glad to find that the Honourable Sir Muhammad Zafrullah Khan was keen on freedom and individual liberty, but, surely, Sir, he will not allow persons inclined that way to take cocaine, poison or commit suicide; surely he would like to interfere when persons are engaged in such activities despite his love of individual liberty. He should not also forget that Congressmen can only *request* traders and others to suspend business on days of mourning, while the policemen force people to open their shops when they would like to join the mourning; and close their shops when they are not in a mood to undergo any mourning. Surely, this is a sword which cuts both ways, and, therefore, let it not be used at all.

Now, Sir, I come to my friends, the non-official Europeans, in this House. The connection with non-official Europeans and my family is at least of a century's duration; and whatever feelings other Members of the House may have towards Europeans, I have nothing but great admiration and affection for them. Personally, Sir, having been closely connected with Mrs. Annie Besant and the Theosophical Society, I have

[Mr. Sri Prakasa.]

the greatest amount of esteem and regard for non-official Europeans who are in our country, as apart from the official Europeans, whom I may not like very much. (Laughter.) I think the presence of European non-officials in India is good for us; and, personally, I revere the memories of many European teachers and enjoy the affection and confidence of many European friends. I personally think, Sir, that the non-official European is the only ray of light in the darkness that surrounds us; for by his position as a non-official, he could meet us on a level of equality, and as English, he can similarly meet the English officials of the land; and thus serve as *liaison*-maker between the two peoples. With these ideas in my mind, Sir, I should like to make an appeal to them to help us to do away with this bad law; and I do this in all sincerity and earnestness. I am very glad to find, Sir, that the two old gentlemen, Sir Leslie Hudson and Sir Darcy Lindsay, are back in their seats this Session (Laughter), because, in their absence, we could not induce the European Group to cast their votes even once with us at Simla. I hope that, as they did last year at Delhi, they will do the same this year, and vote with us sometimes at least.

My friend, Mr. Morgan, Sir, speaking on this motion at Simla was exceedingly upset over conspiracies, and he was full of ideas of the prestige and importance of the governors of the land. I will ask him a simple question. What about the conspiracy of his ancestors in trade in Calcutta when they wanted to bundle Lord Ripon out of the land, and, when, in a moment of great joy and excitement, they danced in Chowringhee, singing: "Let us put a Duffer out, before we put a Duffer-in". (Laughter.) That was a conspiracy of which he cannot be justly proud, and if 1908 had been a year before that, they might have got into trouble. The House will remember that Lord Dufferin succeeded Lord Ripon.

Then, Sir, my friend, Mr. James, quoted at Simla from a number of papers which were supposed to have been issued in the interest of unlawful associations, and said how can these papers be allowed to live when they write such things that cannot possibly take place. Since then, Sir, we have had the Benda incident, and we know that things happen which are difficult to believe. It is an accident that this particular incident has been discovered; but many things like that are happening all over the land every day, and it is no good for any non-official Europeans coming here and lauding Magistrates who shoot agitators, and holding up their hands in holy horror when there is shooting on the other side. Sir, I dislike shooting on both sides. I hate shooting of any sort or kind, and, therefore, I should like my friends the non-official Europeans not to disappoint us, as I fear the official Indians have disappointed us. I am, Sir, no believer in that passion for Indianisation which seems to trouble so many of us. I have seen a number of high Indian officials, and I am no admirer of the way they go about their business. In fact, I am very much in favour of a gradual Europeanisation of the lower services (Loud Laughter), so that, Sir, both for the sake of efficiency and dignity, every *chowkidar*, every *patwari*, every rickshaw coolie, that drags the rickshaws of the Honourable Members opposite, should be a European. (Loud Laughter.) I dislike the word cooly, but I use it on the authority of my Honourable friend, Mr. P. R. Rau, who quoted the Oxford Dictionary in his support.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is digressing a good deal from the subject.

Mr. Sri Prakasa: I am very sorry if I did so, but I have tried to explain very often in the course of my speech that I was only trying to show that the ordinary law of the land is strong enough to meet all contingencies and, therefore, no special law is necessary. I had to dilate at length on that topic in order to convince my Honourable friends opposite that this law is really useless and that by enacting it they are only getting a bad name in the country and the world, while the ordinary law will help them to do whatever they like and whenever they like it. That is the relevancy of all that I have said and I crave your indulgence for a few more minutes, so that I may be able to finish.

Some Honourable Members: Go on, go on.

Mr. Sri Prakasa: Of all the great problems that tax the thoughts of the most thoughtful and stir the feelings of the most sensitive, perhaps the most difficult of solution is the problem of the adjustment of relations between an alien people and a subject race. I understand, I recognise, I appreciate that a government, however bad, must govern. I also appreciate that a people, however low, must attempt to be free. And when I have said that, I believe everything else follows as a logical sequence. From terrorism to whipping on the one hand on the part of Government, to terrorism and parliamentary pressure like that exercised in this House on our part, on the other, are all links in the great chain. We have nothing to be afraid of, we have nothing to be sorry about, because a government must govern and the people must attempt to be free. But what I say is just this, that there should be no hypocrisy about this relationship.

The Honourable Sir Nripendra Sircar: I move that the question be now put.

Several Honourable Members: Let the question be now put.

Mr. President (The Honourable Sir Abdur Rahim): The Chair hopes the Honourable Member will finish his speech.

Mr. Sri Prakasa: I am just finishing.

Mr. President (The Honourable Sir Abdur Rahim): There is a good deal of repetition, too much of it.

Mr. Sri Prakasa: There should be a frank recognition of the position. I do not understand why my Honourable friend, the Law Member, is so sensitive or so impatient. We heard, with the greatest patience, for three or four hours, his speech, and surely he may extend to me the same courtesy for a few more minutes. I will just say this to the Honourable the Law Member. In one of his periods of inspired oratory, he asked my Honourable friend, Mr. Sham Lal, as to who was the Hanuman in a particular Ram Lila show? Mr. Sham Lal got rather disconcerted, but I am assured by an anatomist that I have still a bit of a tail left, and so I will say, I am prepared to be Hanuman if he

[Mr. Sri Prakasa.]

will be Vibhishana and help us to bring down this Ravana and destroy this Lanka. That was what I was going to tell him when he interfered unnecessarily. Sir, we must recognise the psychological facts as they are, and we must also be prepared to face the situation as it is. I was only going to say this, that, if the talk is of strong government, I have no objection. All my objection is to the hypocritical talk of constitutional liberty and ordered freedom. If the Government mean to govern whatever happens and as long as they can possibly govern, let them say so and let them do as they like. But if they say that they are leading the country into paths of constitutional liberty, of ordered freedom, all that I have to say is that these Criminal Law Amendment Acts are not the proper foundations on which the edifice of India's future liberty can be builded, nor are the members of the present Government the fittest architects of India's future destiny. (Applause from Opposition Benches.)

The Honourable Sir Henry Craik: The question may now be put.

Several Other Honourable Members on Government Benches: Let the question be now put.

Mr. Ghanshiam Singh Gupta (Central Provinces Hindi Divisions: Non-Muhammadan): I have my amendment, Sir.

Mr. President (The Honourable Sir Abdur Rahim): Why did not the Honourable Member rise in his place when the clause was called? That was the proper time to move the amendment, and if the Honourable Member did not rise in his place to move his amendment, he has lost his chance.

Mr. Ghanshiam Singh Gupta: I was not called.

Mr. President (The Honourable Sir Abdur Rahim): There is no obligation on the Chair to call upon those who have given notice of amendments to move them. It is for Honourable Members themselves to take care of their amendments. That has been repeatedly ruled, and the Chair is going to follow it.

Mr. Ghanshiam Singh Gupta: May I submit one word? My amendment is third in the list, there are two other amendments before mine, to be reached, and I thought that only after they had been moved, I would get a chance of moving mine.

Mr. President (The Honourable Sir Abdur Rahim): When those Honourable Member did not move, then the Honourable Member who wants now to move his amendment should have got up at that time.

Sardar Sant Singh (West Punjab: Sikh): If there are a number of amendments on the agenda paper, how can Members whose amendments come subsequently know that Members in charge of those previous amendments are not moving? This will lead to a lot of confusion.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has only to look at the agenda paper.

Sardar Sant Singh: But I am waiting for my amendment to be reached.

Mr. President (The Honourable Sir Abdur Rahim): The question has been the subject of ruling more than once, and the Chair is only following it. The Chair will not allow any amendments to be moved at this stage.

As regards the closure that has been moved, the Chair finds that about fifteen Members have already spoken on this Bill, and it accepts the closure.

Mr. Bhulabhai J. Desai (Bombay Northern Division: Non-Muhammadan Rural): May I just read out a ruling on this question of closure which is at page 208, No. 237?

"After discussion had proceeded for some time on the Resolution regarding extension of reforms to the North West Frontier Province, Mr. K. Ahmed moved for closure:

The President remarked, 'If Honourable Members wanted the Chair to accept the closure they should not have got up in large numbers at first. It is impossible for the Chair to accept the closure at this moment when there are leaders of important parties who have not yet spoken.'

After one more speech, Mr. K. Ahmed again moved for closure:

"The President ruled: 'Some Honourable Members desire that the Chair should accept closure at this stage. They know very well that if the Chair is unable to accept closure now, they have to thank themselves for it. They should not have got up in such large numbers and taken their turn first, but should have allowed the other side also to state their point of view. The Leaders of the two important Parties have not yet spoken and the Chair understands that both Mr. Jinnah and Pandit Motilal desire to do so. The Chair has also ascertained that Diwan Bahadur Rangachariar, who was a prominent Member of the Frontier Committee, as also Sir Sivaswamy Iyer, desire to have an opportunity to participate in the debate. The Chair, therefore, regrets it cannot accept closure at this stage.'"

Mr. President (The Honourable Sir Abdur Rahim): The Chair does not know if the Honourable Member has seen the list of Members who have spoken.

Mr. Bhulabhai J. Desai: I know, but my submission is this. The point of it appears to be, at all events, it may be out of deference, or something else, but as I happen to stand in that position I speak with a certain amount of hesitation. The point that I wish to lay emphasis on is that if Leaders of important Parties wish to speak, they are always allowed an opportunity to do so.

The Honourable Sir Nripendra Sircar: May I make a submission? On the last occasion, you said, and if I may say so respectfully, very correctly that clause 2 embodies the principle of the Bill and the object of the Bill. That has been discussed threadbare upon the motion for consideration. You have got to look at the facts of this case. There is nothing beyond clause 2 which has been discussed during the consideration stage. On that, my Honourable friend, Mr. Desai, has spoken and the leader of the Nationalist Party

Several Honourable Members: No, no.

Mr. Bhulabhai J. Desai: I have not spoken a word. None of us have spoken. After the second reading, I have not spoken, and I am entitled to speak.

The Honourable Sir Nripendra Sircar: I have not suggested that he has spoken on clause 2.

An Honourable Member: Nor Mr. Aney.

Sir Cowasji Jehangir: Has the Law Member had a chance of speaking on this motion? (Laughter.)

The Honourable Sir Nripendra Sircar: If my friend will listen to me, he will see

Mr. Bhulabhai J. Desai: On a point of order. I really mean it. It is not a mere form. The facts that are being stated now have got no reference to the rulings. The point which I want to emphasize and ask the Chair to take into consideration is this. Irrespective of any other question—my friend raises them when it suits him and he does not when it does not suit him—I do not want to interfere with it, what I wish to say is that, on the consideration of clause 2, neither Mr. Aney nor the leaders of the three Parties have spoken, and they wish to address the House. So this is not a proper time to accept closure. That is the point. It is no use saying that I spoke on some other occasion.

An Honourable Member: Mr. Aney and Maulana Shaukat Ali want to speak.

Mr. Bhulabhai J. Desai: This is an important and far-reaching measure. It may be nothing to them. It is everything to us. It is our liberties that are at stake, not theirs. They are all stable and they will remain stable.

Mr. President (The Honourable Sir Abdur Rahim): Is not clause 2 the same as the Bill itself?

Mr. Bhulabhai J. Desai: I may remind you of a previous occasion. I claim equality with the rest of the Members of the House here. I have not transgressed your ruling either directly or indirectly. You might remember the case that arose at the time of the Railway Budget. You have given the ruling that it is open to us to speak, and there is no question of repetition.

The Honourable Sir Nripendra Sircar: The rule to which your attention has been drawn is on page 237. There, in the course of the discussion on a Resolution, and before the leaders had spoken, Mr. Ahmed wanted the closure to be put, and the President said, and rightly said that on that Resolution the leaders had not spoken, and, therefore, he would not accept closure. The rationale of your decision was this—there is nothing in this Bill beyond clause 2 which embodies the principle and

the real object of the Bill. That has been discussed threadbare upon the motion for consideration. You also said :

“There is no amendment of which notice has been given. So the Chair must rule that no general discussion can go on any further.”

Now, the point is this. On this occasion, you very rightly pointed out that the leaders have spoken on the principle and real object of the Bill at the consideration stage. Then, there is the further point. You have given your ruling. You have accepted the closure. The ruling is that the general discussion cannot go on any further. We have to look at the common sense point of view. Every leader in the House talked on this, when the general principle was discussed for four days. I submit you have given your ruling, and that ought to be accepted.

Mr. President (The Honourable Sir Abdur Rahim): It is really for the House to decide. The Chair does not go back on what it has said already, that clause 2 of the Bill is the whole Bill and the Chair finds that the leaders of all Parties have spoken on that. The Chair will, therefore, put the question.

The question is that the question be now put.

The Assembly divided :

AYES 58.

Abdullah, Mr. H. M.
 Acott, Mr. A. S. V.
 Ahmad Nawaz Khan, Major Nawab.
 Allah Bakhsh Khan Tiwana, Khan Bahadur Nawab Malik.
 Aminuddin, Mr. Saiyid.
 Ayyar, Diwan Bahadur R. V. Krishna.
 Ayyar, Rao Bahadur A. A. Venkatarama.
 Bajpai, Sir Girja Shankar.
 Bhagchand Soni, Rai Bahadur Seth.
 Buss, Mr. L. C.
 Clow, Mr. A. G.
 Craik, The Honourable Sir Henry.
 Dalal, Dr. R. D.
 Das-Gupta, Mr. S. K.
 Dash, Mr. A. J.
 DeSouza, Dr. F. X.
 Dow, Mr. H.
 Fazl-i-Haq Piracha, Khan Bahadur Shaikh.
 Gajapatiraj, Maharaj Kumar Vijaya Ananda.
 Ghiasuddin, Mr. M.
 Ghuznavi, Sir Abdul Halim.
 Grigg, The Honourable Sir James.
 Grigson, Mr. W. V.
 Hands, Mr. A. S.
 Hudson, Sir Leslie.
 Hutton, Dr. J. H.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur Sardar Sir.
 Khurshaid Muhammad, Khan Bahadur Shaikh.

Lal Chand, Captain Rao Bahadur Chaudhri.
 Leach, Mr. F. B.
 Lindsay, Sir Darcy.
 Lloyd, Mr. A. H.
 MacDougall, Mr. R. M.
 Mehr Shah, Nawab Sahibzada Sir Sayad Muhammad.
 Metcalfe, Sir Aubrey.
 Milligan, Mr. J. A.
 Morgan, Mr. G.
 Muhammad Ismail Khan, Haji Chaudhury.
 Muhammad Nauman, Mr.
 Mukherjee, Rai Bahadur Sir Satya Charan.
 Noyce, The Honourable Sir Frank.
 Rajah, Rao Bahadur M. C.
 Rajan Bakhsh Shah, Khan Bahadur Makhdm Syed.
 Rau, Mr. P. R.
 Sale, Mr. J. F.
 Sarma, Mr. R. S.
 Scott, Mr. J. Ramsay.
 Singh, Rai Bahadur Shyam Narayan.
 Sinha, Raja Bahadur Harihar Prasad Narayan.
 Sircar, The Honourable Sir Nri-pendra.
 Spence, Mr. G. H.
 Tottenham, Mr. G. R. F.
 Witherington, Mr. C. H.
 Yakub, Sir Muhammad.
 Yamin Khan, Sir Muhammad.
 Zafrullah Khan, The Honourable Sir Muhammad.
 Ziauddin Ahmad, Dr.

NOES 60.

Abdul Matin Chaudhury, Mr.
 Aney, Mr. M. S.
 Asaf Ali, Mr. M.
 Ayyangar, Mr. M. Ananthasayanam.
 Badi-uz-Zaman, Maulvi.
 Badrul Hasan, Maulvi.
 Banerjee, Dr. P. N.
 Bhagavan Das, Dr.
 Chattopadhyaya, Mr. Amarendra
 Nath.
 Chettiar, Mr. T. S. Avinashilingam.
 Chetty, Mr. Sami Vencatachelam.
 Das, Mr. B.
 Das, Pandit Nilakantha.
 Datta, Mr. Akhil Chandra.
 Desai, Mr. Bhulabhai J.
 Deshmukh, Dr. G. V.
 Essak Sait, Mr. H. A. Sathar H.
 Gadgil, Mr. N. V.
 Gauba, Mr. K. L.
 Ghulam Bhik Nairang, Syed.
 Giri, Mr. V. V.
 Govind Das, Seth.
 Gupta, Mr. Ghansham Singh.
 Hans Raj, Raizada.
 Hosmani, Mr. S. K.
 Jeehe, Mr. K. M.
 Jehangir, Sir Cowasji.
 Jogendra Singh, Sardar.
 Joshi, Mr. N. M.
 Kailash Behari Lal, Babu.

Khan Sahib, Dr.
 Khare, Dr. N. B.
 Lalchand Navalrai, Mr.
 Maitra, Pandit Lakshmi Kanta.
 Malaviya, Pandit Krishna Kant.
 Mangal Singh, Sardar.
 Mody, Sir Hormasji Peroshaw.
 Mudaliar, Mr. C. N. Muthuranga.
 Muhammad Ahmad Kazmi, Qazi.
 Paliwal, Pandit Sri Krishna Dutta.
 Pant, Pandit Govind Ballabh.
 Raghbir Narayan Singh, Choudhri.
 Rajan, Dr. T. S. S.
 Raju, Mr. P. S. Kumaraswami.
 Saksena, Mr. Mohan Lal.
 Sant Singh, Sardar.
 Satyamurti, Mr. S.
 Sham Lal, Mr.
 Shaikat Ali, Maulana.
 Sheodass Daga, Seth.
 Singh, Mr. Ram Narayan.
 Sinha, Mr. Anugrah Narayan.
 Sinha, Mr. Satya Narayan.
 Sinha, Mr. Shri Krishna.
 Som, Mr. Suryya Kumar.
 Sri Prakasa, Mr.
 Thein Maung, Dr.
 Umar Aly Shah, Mr.
 Varma, Mr. B. B.
 Vissanji, Mr. Mathuradas.

The motion was negatived.

Sardar Sant Singh: Sir, I congratulate my Honourable friend, Mr.

4 P.M. Sri Prakasa, on the very brilliant speech that he made. It is really very unusual that a non-official Bill should take four days on the floor of the House, and, at the end of it, there should be a closure motion applied by the Honourable the Law Member to close the debate. He has just appealed that from a common sense point of view the debate should have been closed earlier. He also made some ungraceful remarks, and, coming as they did from him, I must say that it was the Honourable the Law Member, if I mistake not and if I remember aright, who started the obstructionist tactics in the last Delhi Session. He went on with his speech for more than six hours, and, after taking away the time of the House in the Delhi Session, when it was felt that the Government votes were not strong enough to defeat this Bill, this Bill had to be postponed to the Simla Session.

The Honourable Sir Henry Craik: You felt that you would have lost the Bill, and that was why you adopted those tactics today.

Sardar Sant Singh: I am glad to confess that if the Government had been met with such tactics on the part of the Opposition, it is the Government that have to thank themselves for it. The Government first started the game, and, like good sportsmen, they should play it up. That is my reply to the remarks just made by the Honourable the Home Member.

Coming to the Bill itself, it seems that in all the speeches made on behalf of the Government, attempts have been made to justify the continuous existence of this Bill on the Statute-book. So far as I have been able to understand it, their point of view is that the conditions in the country, the prevalence of the terrorist movement, the coming in of communistic activities and added to these two, the communalism in the Provinces makes it obligatory upon the Government to possess such repressive powers. That, in brief, is the reason, that is the justification given by the Government Benches for the continuance of the Bill on the Statute-book. On the contrary the Opposition argues and argues very rightly that the powers given by the Legislature to the executive have been more often abused than used in the proper manner with the result that this Act has become an instrument of oppression by the executive to the detriment of the legitimate interests of the people in India. These are the two points of view which we have to meet. There is no doubt, Sir, that when the Government Benches come forward with their argument that no honest man need be afraid of the provisions of this Bill because the Bill aims to touch those who are not law abiding citizens of India and that it aims to punish those persons who are law breakers and that those who are not law breakers need have no fears by this Act, I submit, Sir, that such an argument is no justification for continuing a lawless law on the Statute-book for about a quarter of a century. But, at the same time, the Government cannot escape this fact that this law has been misapplied in many cases. If they are faced with any difficulty, I will be the first person to support them in maintaining this law on the Statute-book. If the Government can show from the records that the Government took action against those district authorities or against the Local Governments who abused the provisions of this law and who did not use them for the purpose for which the law was intended, I would have supported the continuation of this law. Can the Government tell me whether they have ever taken any notice of the District Magistrate who abused his powers derived from this law? Have the Government censured any District Magistrate, or have the Government taken any coercive action against the executive authorities when they did not use the law for the purpose for which it was really intended? I can challenge the Government on this point that they cannot point out a single instance in which the Government took to task any District Officers for having abused the provisions of this law. Now, Sir, the law has been in force for the last 27 years. The law has been administered in innumerable cases. Can the Government take their stand that its provisions have never been abused or that they never knew they have been abused. In almost all the speeches made by the Opposition Benches, an attempt has been made to open the eyes of the Government in this House and attempts have been made by writings in the Press and by the outside public to prove that the provisions of this law have been so often abused that it has become an intolerable Statute. Therefore, Sir, my submission is that this law cannot be allowed to stand any longer on the Statute-book.

Before we truly appreciate the implications and the effect of this law, I think it will not be out of place here to refresh the memory of Honourable Members as to what the provisions of this law are and what is the little history behind it? Originally this law was enacted by the Imperial Legislative Council in 1908. It was divided into two parts,

[Sardar Sant Singh.]

Part I and Part II. Part I was later on repealed and Part II was allowed to stand. Originally it was applied to the Provinces of Bengal and Eastern Bengal and Assam. Power was given in the Act itself to the Governor General to extend by notification in the official Gazette the whole or any part of this Act to any Province which the Governor General may be pleased to extend. Later on, under the Devolution Act, the power which was originally given to the Governor General in Council was handed over to the lesser authority, that is to say the Local Governments. Now, Sir, at the time when the Act was passed by the Legislature even that Legislature, which consisted entirely of nominated non-official Members and officials at the time, rightly reserved the power to the highest authority in the land, that is to say the Governor General in Council. Afterwards why did the Governor General in Council deprive himself of this power without the consent of the Legislature and why did this power devolve on the Local Governments, it is not clear. In view of the highly repressive nature of the provisions of the law, it was but right that the power should vest in the highest authority in the land. The very fact that the power has been given to the Local Governments goes to show that the Act itself has become a bit more dangerous than it was originally intended to be. When the Montagu-Chelmsford Reforms came, the new Legislatures were set up and it was proclaimed by beat of the drum that the advent of the new reforms in 1920 was the first instalment towards the progressive development of Dominion Status. The demand of those who were asked to run the constitution at the time was that if a new atmosphere, an atmosphere of peace and good-will was to be created in the country, it was essential that the repressive laws should go. That is why the Government of the time conceded to the first Legislative Assembly the right to look into the repressive laws as a whole. The Repressive Laws Committee was appointed and that Committee went into all the all-India Statutes, and therein they reviewed the whole legal situation. After reviewing the whole legal situation, they retained two enactments, the second part of this Criminal Law Amendment Act, and Regulation III of 1818. I am not concerned at present with the second, namely, Regulation III of 1818. If that was the attitude of the first Legislative Assembly I fail to understand why, if the coming constitution, according to the boast of those who believe in it, is going to confer greater power upon the Indians, it should be necessary to maintain repressive laws in the country. That is a state of affairs which is not clear to the ordinary individual. On the contrary we find that the nearer we approach to the new constitution the more are the gifts of repressive laws that are offered to us. During the last Session of the Assembly and the Session previous to that, in spite of the fact that this House summarily rejected the Criminal Law Amendment Bill, it was certified by the Governor General under the powers reserved to him in the Constitution. The Part II of this Act consists of about 4 sections. Section 15 defines the word "association". It is a very curious definition the like of which is probably not known in other countries. It is defined to mean:

"Any combination or body of persons, whether the same be known by any distinctive name or not."

So that, wherever people assemble, whether they form into an association by giving it a particular name or they do not give it a particular

name, their assemblage will be an "association" within the meaning of this Act. Then comes the definition of "unlawful association". It is defined as an association which:

"Encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts or which have been declared to be unlawful by the Local Government under the powers hereby conferred."

Now, one can understand the meaning of the first clause of the definition of "unlawful association", and one can understand that the executive government wants to discourage the association from acts of violence or intimidation; but one really cannot understand why the power should be given to the Local Government to declare associations to be unlawful. That is a point which is beyond the comprehension of many jurists in this country. Why in the name of law, I ask, should that association be an unlawful association which an executive authority sitting in his office is pleased to declare as unlawful? Why should not the power of scrutiny be given to the ordinary Courts of the land, to go into the question whether a particular association indulges in acts of violence or it does not? Such a power is given under section 16 that:

"If the Local Government is of opinion that any association interferes or has for its object interference with the administration of the law or with the maintenance of law and order or if it constitutes a danger to the public peace, the Local Government may, by notification in the official Gazette, declare such association to be unlawful."

Here no duty has been cast upon the Local Government to give reasons for declaring an association to be unlawful. This is the least that they should have done. The Act should have made it incumbent upon the Local Government to give reasons, the evidence on which their opinion is based that a particular association is indulging in acts of intimidation or violence. But no such obligation has been laid upon the Local Government with the result that we have found,—and instances have not been too few,—that many associations engaged in social welfare work, in educational work and in other works which are for the benefit of the people, have been declared unlawful at the whim of the Local Government, probably based upon the report of an unscrupulous police officer or a C. I. D. officer. This power has been used in a very curious manner by the executive authorities. Under section 17 which prescribes penalties for being a member of such an unlawful association, curious things have happened. It was not unusual to find that a particular association had been declared unlawful and the notification making such declaration was published in the local Gazette which Gazette had not yet been published or released to the public. The public had not read the notification, they had not the occasion to acquaint themselves of the terms of the notification, when at midnight a raid was committed by the police officers arresting those who were members of the unlawful association. None of them knew that the particular association had been declared to be unlawful. What is that jurisprudence, I ask the Honourable the Law Member, and who is that jurist who has sanctioned such principles of criminal jurisprudence in this country? Knowledge and intention were all eliminated from criminology. You may not know a particular association to have been declared unlawful under this power; you may, not have heard of this notification; the notification may not have been proclaimed to the public; and yet you go and arrest a person who went to bed an innocent man and rose in the morning a criminal without any act

[Sardar Sant Singh.]

of his own. I perfectly remember, Sir, a particular case of my own. After Easter, I think it was about the 22nd of April, 1919, when I got up from my bed, I found the District Magistrate and the Superintendent of Police at my door, and they arrested me. Well, I never knew what offence I had committed: I never knew of what act I was guilty for which this arrest had been ordered. I was taken to the jail in a long procession of machine guns and cavalry. We asked the District Magistrate who had personally escorted us to the jail as to what the offence was for which I was arrested and where the warrant of arrest was. He said "Do not worry, the jailor will tell you". After about half an hour they left, and we went to the jailor and asked him what the offence was for which we had been arrested. He told us that we had been arrested for being members of an unlawful assembly under section 143 of the Indian Penal Code. That was a new experience in which section 143 was applied—that men who were sleeping in their houses and who were awakened by the police were arrested. Where was the assembly and what was its common object?—What was the act which made us unlawful? We never met together (there were eleven of us who had been arrested) and never had the occasion to act together. Is this the criminal law which the Honourable the Law Member, who has probably been brought up in the traditions and with the knowledge of British jurisprudence, wants to see prevail in India? I shall give you another instance and a later instance.

Mr. M. S. Aney (Berar Representative): And a better one too.

Sardar Sant Singh: The members of the Shiromani Gurdwara Prambandhak Committee, the Committee which publicly confessed to be doing religious work—the management of the Sikh temples,—were one evening declared to be an unlawful association under the Criminal Law Amendment Act.

Maulana Shaukat Ali (Cities of the United Provinces: Muhammadan Urban): Tomorrow it may be declared again. Islam and Sikhism both declared unlawful!

Sardar Sant Singh: It is no wonder; the time may come probably. It has come in the Punjab. In this case, the members were arrested before the notification was published. Under this Act, the notification was published later, the arrests were made earlier. This is the law which the Honourable the Law Member wants to maintain on the Statute-book. At present he is talking to his Whip, but I want to address the Honourable the Law Member on this point. May I request him to kindly listen to what I am saying?

Dr. G. V. Deshmukh (Bombay City: Non-Muhammadan Urban): Never mind, you address the Chair.

Sardar Sant Singh: Sir, may I draw the attention of the Honourable the Law Member through you that he should listen to the debate before he comes to make any reply? (Laughter.) I will come to my point when he is more attentive. What I submit, Sir, is, that power is given

under section 17 which Mr. B. Das wants to repeal, namely, that a Local Government can declare an association to be unlawful. Then what follows is that as soon as it is so declared, the police goes to the house of the persons and those who were considered to be members and who were on their list or known to be members of that unlawful association are arrested. After this the case is filed before the Court. What possible defence can there be for such a thing? The Courts of law are the defenders of the liberties of the people. If a man feels aggrieved against an act of the executive, the Courts of law are open to him to get his grievance redressed, but under this Act no such Court is allowed to act. The police officer comes to the Court and says "Sir, I arrested him, he was a member of an unlawful association". But what is the offence? At the same time as he is arrested, a search is made of the books found in the office and his name is found entered in a list. Who entered it? Was any consent obtained of the members of the association? No enquiry is permitted on that count. The magistrate says: "All right, your name is in the list of members of the unlawful association: you must go to prison for a couple of years". That is the law which you want to maintain. As the Honourable the Law Member is attending to my speech now, I will just ask him. He is sitting with the Honourable the Home Member. One represents law, the other represents the executive authority of the country. I do not understand, Sir, why the law should be abdicated in the hands of the executive authority. If law and order are to go together, are to be wedded together, they must be wedded together judiciously. But if order wants everything and the law wants to abdicate its own rightful functions in the hands of the order, certain confusion will follow as it has done in this case.

Mr. M. S. Aney: Judicial separation, a sort of divorce.

Sardar Sant Singh: It is judicial separation. I come next, Sir, to section 18 of this Bill. Section 18 says:

"An association shall not be deemed to have ceased to exist by reason only of any formal act of dissolution or change of title, but shall be deemed to continue so long as any actual combination for the purposes of such association continues between any members thereof."

Now the first power is given under section 17 to declare an association to be unlawful. As soon as the association has been declared to be unlawful, one can understand that the persons who are members of that association should be given an opportunity to resign their membership or to close the unlawful association in deference to the wishes of the executive authority. Give me an opportunity to dissociate myself from that association, but you do not give me any such opportunity. As I said before, the arrest takes place immediately before the declaration is made without giving an opportunity to the member or members to withdraw from the association. If I get a clue in time and I formally withdraw, then section 18 says: "No, your formal act of dissolution would not be permitted; you are still guilty." I do not know what the criminal intention behind it is. I am a member of the association when the association is not unlawful. I continue to be a member when the association is declared to be unlawful. I at once understand that the association has been declared to be unlawful, I go to the members and say "Look here, we formally dissolve, because the association has become unlawful henceforth". This formal act of

[Sardar Sant Singh.]

dissolution would not give me the protection or the shelter which I want to have. I want to respect the law, I even want to submit to the arbitrary act of the executive in declaring the association to be unlawful, but you say: "No, you have been a member, therefore, you are guilty." If you force people to be criminals, it is no wonder that we, who occupy this side of the Benches, are bound to be criminals. It is no wonder that if the Ministries in the Provincial Councils are to be formed under the new Constitution, they will be formed of those who were once the criminals and jail birds of your prisons. What is this? Why should you attempt to continue this state of affairs under a law which probably no jurist will claim as his legitimate son? I am just reminded by my Colleague, Sardar Mangal Singh, that at the time when the Shiromani Gurdwara Parbandhak Committee was declared unlawful, Sardar Mangal Singh was undergoing a sentence of imprisonment and as his term of imprisonment came to a close, he was arrested in prison for being a member of that association. (Laughter.) That is the sort of law which this Criminal Law Amendment Act represents. He was in jail. Even jail did not give him that freedom from arrest which ought to have been given because as soon as a man goes to jail, he cuts himself off from society; he ceases to be a member of any society—he cannot be—it is against his will that he is being detained in prison. Under these circumstances, I submit that this particular law should no longer be the law of a country where self-respecting persons mean to live.

But that is not all. This law has not been allowed to stand at that stage. Rather, in 1932, further repressive provisions were added to it by Act 23 of 1932; and the Bill of Mr. B. Das in clause 2 wants those provisions to be repealed as well. Those provisions are more interesting than the provisions of the original Act itself. The first is section 17-A of this Act—contained in section 13 of Act 23 of 1932, which says:

"So long as this Act remains in force, after section 17 of the Indian Criminal Law Amendment Act, 1908, the following sections shall be deemed to be inserted, namely:

17A. A Local Government may by notification in the local official gazette notify any place which in its opinion is used for the purpose of an unlawful association . . ."

This Act originally confined itself to declaring a combination of persons to be an unlawful association. Now, the executive thought that that was not enough and that the Congress was becoming inconvenient to the administration; and they said to themselves: "We may declare particular men to be an unlawful association, but what about the place where they meet? All right, we will bring that into this", and they gave the Local Government authority to declare a particular place to be an unlawful place. Defining the word 'place' they say: "it includes a house or building, or part thereof or a tent or vessel." The words are so wide in their application that if I were to invite a few persons, who happened to be members of an unlawful association, to a tea party in my house and there they happened to discuss, in informal conversation even, some of their activities, then my house can be confiscated under this Act for having been used for the purpose of an unlawful association. Not only this, but further on the power is given that when a particular place has been declared to be a notified place under section 17-A, the District Magistrate has the power

to take possession of that notified place and evict therefrom any person found therein and shall forthwith make a report of his taking possession to the Local Government. These are the duties laid upon the District Magistrate. What happens? It happens like this: no opportunity is given to the owner or occupier of the land to meet the accusation that that place has been used for the purpose of an unlawful association, and it is nowhere laid down that the purpose of that unlawful association should be unlawful. What is laid down is for the purposes of an unlawful association. The purpose may be perfectly legal: he may have come in a marriage party to that house; even if the purpose is perfectly legal, that place can be declared notified as a place which can be taken possession of by the local authority. Absolutely no consideration is to be shown to the occupier of the building or to the inconvenience he may feel after eviction. No restriction is laid such as that possession may be taken between sunrise and sunset only as it is in the Civil Procedure Code when attachment is ordered. They may turn you out in the middle of the night, when probably a storm is raging outside and rain is falling; in the middle of a December night—probably snow may be falling somewhere—children, wife, old men and young, everybody turned out bag and baggage. That is the law in the Criminal Law Amendment Act. Does that appeal to the conscience of the Honourable the Law Member? . . .

The Honourable Sir Nripendra Sircar: That is not the law as I understand it.

Sardar Sant Singh: If it is not the law as he understands it, can he kindly enlighten us what the meaning of "for the purposes of an unlawful association" is . . .

An Honourable Member: And how it has been used?

Sardar Sant Singh: . . . and how it has been administered? That is the point. I put the question in the very beginning: has the Government of India taken the trouble of punishing a single executive officer for having misused this law? If the Honourable the Law Member were to get up and say that such and such District Magistrate was punished for having misused this Act, I will certainly say I will be content to live under this Act for some time more till the emergency is over. I was developing the point that even in war when you are dealing with an enemy there are Red Cross Societies whose places are protected: there are provisions in the International Law to defend the honour of women of the enemy; there are provisions in the International Law that civilian population should not be bombed or killed, and that women and children should be protected. But this law does not give that protection to women and children here. . .

Dr. G. V. Deshmukh: That is war: this is governing!

Sardar Sant Singh: That is a very good distinction, but if I were to place this piece of legislation before an arbitrator, before a man who belongs to a third country,—why third country?—I challenge my friends to bring a jurist from England and discuss this law with him on the point whether he will be willing to call this as a law based on any principle of jurisprudence of any country. The greatest condemnation of this law is that it does not know what it has enacted; the executive authority wants to stand by it and does not seem to realise what it has done in enacting such a law.

[Sardar Sant Singh.]

Then, Sir, the executive Government says that this law is necessary. I will deal with that point later on, but I want to submit for your consideration that the provisions of this law are so arbitrary, inhuman and brutal that no decent country ought to have them.

Further on, I say that after having ejected everybody, what do the executive authorities do? In section 18 they are empowered to take possession of all moveable property. This is really a very curious state of affairs. The executive authority can take away all moveable property,—clothes, utensils, shoes, caps and turbans and everything. I believe we can protect our wearing apparel, otherwise they can take away the wearing apparel also and send away the inmates of the house quite naked in their blessed childhood into the world. . . .

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): You have got your beard all right; that cannot be taken away. (Laughter.)

Sardar Sant Singh: I have got that advantage over my friend, the illustrious Knight from Moradabad. I gladly invite him to embrace Sikhism and protect himself against such atrocities when such occasions arise. (Laughter.)

Now, Sir, as I was saying, this law empowers the District Magistrate to take possession of your moveables. It may be urged that provision is also made to see that the District Magistrate shall seize only such of the moveables which, in his opinion, go to form part of the unlawful association. That is certainly so, but when is that decision to be applied? Certainly, not at the time when the occupier is ejected, but it will be applied later on when the inmates of the house who have been ejected have starved themselves, if not for a longer period, at least for one or two days. Is that a form of humanity of which the Government of India wants to feel proud and maintain that such a provision ought to be retained in the Statute-book?

Further on, it is stated that provision is made in section 18 that if any moveable property of a third party is found in the premises which is declared unlawful, and if it is also attached or taken away, then that individual can come and raise an objection; and it is further stated that the objection will be referred to a Civil Court for final decision. That is very good, but the framers of this law forgot the fact that if a person comes forward and decides to put in objection claiming the moveable property he will stand a jolly good chance of being run in as a member of the unlawful association. If my statement is wrong, then I challenge my Honourable friend, the Law Member, to tell me, during the four years that this law has been in active operation, even a single instance in which objection was sent to the Civil Court and an objector appeared before the Court making a claim for the recovery of his moveables. Sir, nobody would risk to come forward and claim any of his moveables, because the whole atmosphere created by the declaration of an unlawful association, by the seizure of moveable property, by the turning out of men, women and children, aged and the sick, into the streets will be such that it would prevent any decent man to come forward and claim his property. I submit, Sir, that the powers which are embodied in section 18 are such that nobody on earth with his head on his shoulders would care to see them retained on the Statute-book.

Further on, another section has been added, section 17-C which says:

"Any person who enters or remains upon a notified place without the permission of the District Magistrate, or of an officer authorised by him in this behalf, shall be deemed to commit criminal trespass".

This means that to enter one's own house is criminal trespass. That does not need any comment.

Then comes section 17-E, which gives such wide powers that it will be impossible for any commercial concern to run its business. Power is given under this section to the executive to look into the account books and dealings of a commercial concern or a banking concern, to discover if there are any funds of an unlawful association left with it. I can understand how my Honourable friend, Mr. James, will feel if his commercial concern were subjected to such treatment, because then all the secrets of his concern will go away.

An Honourable Member: There are no secrets.

Sardar Sant Singh: I am glad to hear there are no secrets, but so far as I know the position, every commercial concern has got some secret of its own.

Mr. M. S. Aney: And all of them say no.

Sardar Sant Singh: Yes, and all of them say they have no secrets. But if we read through the records of the Income-tax Department, we find that their main grievance is that people keep a double set of accounts and they do not show proper accounts. At any rate, Sir, there are secrets maintained by every concern, and if those secrets go out, such revelations may bring about the ruin of the concern—will any commercial gentleman agree to be a party to such legislation which will give a free hand to a third party to pry into the secrets of his concern?

Further on, Sir, the most curious power that has been retained by the executive in this connection is that they have made themselves perfectly safe for whatever actions they take, provided there should be no *mala fides*: Now, the *mala fides* in the criminal law has been restricted in India to mean only malice. Malice means some enmity, some grudge, or some bad motive of that sort, though in other countries malice has got a wider meaning. Under this section they can even break the provisions of this very law itself, they can go against the express wishes of the Legislature, and yet they say that they did not intend to act *mala fide*, they intended to act *bona fide* and, therefore, they are not to blame.

Then, Sir, further on, section 17-F says this:

"Every report of the taking possession of property and every declaration of forfeiture made, or purporting to be made under this Act, shall, as against all persons, be conclusive proof that the property specified therein has been taken possession of by Government or has been forfeited, as the case may be, and save as provided in sections 17B and 17E, no proceeding purporting to be taken under sections 17A, 17B, 17C, 17D or 17E shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under the said sections or against Government or any person acting on behalf of or by authority of Government for any loss or damage caused to or in respect of any property whereof possession has been taken by Government under this Act."

[Sardar Sant Singh.]

What does it come to? I think the Honourable the Law Member will disagree with this interpretation of mine of this section as well. A police party goes to take possession of a place, breaks all the china vessels there, breaks all the good furniture that may have cost thousands of rupees to the owners, may burn some of the property, but, so long as the act was intended to be done in good faith, he is not liable, no Civil Court, no Criminal Court can take notice of it. Why this fear of Civil Courts? Is this thing justified by the conditions in the country? But why should I not get the right—after doing all, you are not willing to face an open enquiry into your conduct, whether you have really carried out the provisions of the Act which has given you power to act. These are the provisions of the Criminal Law Amendment Act which my Honourable friend, Mr. B. Das's Bill wants to repeal.

After refreshing the memory of Honourable Members on the provisions of this Bill I am going to ask a few questions. The first question is, if you really intend that the coming Constitution should be worked by the self-respecting men of the country, is it consistent that such provisions should be allowed to stand on the Statute-book? If you want that the Constitution should fail, you are welcome to take all these powers because they are a sure sign of the failure of the Constitution. The second point is, let us judge this Act from the utilitarian point of view. Let us be realists and find out whether this Act has succeeded in killing the evil for which it was intended? The history has been given by the Honourable the Law Member from the year 1905 to the year 1935 in his speech where he quoted instances after instances of what the terrorists have done, what the Congress has done, what the communists have done and what other law-breakers have done. I accept that statement of fact as true. Am I not entitled to ask the Honourable the Law Member whether the conditions in the country have not gone from bad to worse from year to year? Does he say that this Act has killed the evil for which it was intended? If it has aggravated the disease, what justification is there to continue this remedy for that evil? Is it not high time that we should sit together and find out the real cause to uproot that evil? Is it not statesmanship to review the whole situation and say, this remedy having failed, let us go to another doctor, to another physician and ask him to give us another remedy? This remedy would not work. What we want is the rule of law in the country. We do not want the rule of order in this country, but the rule of law, the rule of justice, the rule of equity, the rule of equal treatment. Today the world is full of rumours of a pending war. It is said that the coming war will be more disastrous in its results than the last War. The European statesmen are after finding out remedies to prevent that war. Well, I suggest to them a remedy, a most humanitarian remedy, and that remedy is, let every nation live peacefully according to its own wishes. Let there be no exploitation by the industrial countries of the other countries which are fields for producing raw materials. And this raw materialism, this industrialism should cease. So long as you think that eastern countries are the fields for exploitation by industrial countries, there can be no peace in the world.

Mr. President (The Honourable Sir Abdur Rahim): What has that got to do with this Bill?

Sardar Sant Singh: That is the real remedy for removing this discontent. This Act would not remove the discontent. On the other hand, this Act will aggravate the disease; the longer it lasts the more irritation will it cause. It will give rise to more provocation with the result that lawlessness will not be curbed. What is happening in the Punjab today? My Honourable friend, the Home Member, will get up and say, well, conditions in the Punjab prove the justification for the continuation of this Act. I say it is just the reverse of it. They have applied the provisions of this measure in the Punjab and they have signally failed. Why? Because, unfortunately, those who are in possession of executive authority in India have lost the imagination necessary for good statesmanship. They have lost their long vision which made the Empire. They have lost that human sympathy, that sense of justice that maintained them here in India for such a long time. (Interruption.) I do concede that, otherwise they would not have been here for such a long time. The very fact that they have been here for a century or so shows that they had the imagination, but they are losing that imagination bit by bit. Look at the way in which these provisions were applied. I do not tell you the incidents because it may create communal bickering in this House. I want to avoid it, but what I want to say is that this Act has entirely failed. It is high time that we should sit together and find out the real cause and remedy the evil and enact only such laws as will bring peace and happiness to this country.

Sir Muhammad Yakub: No one can congratulate a country where engineers pose the role of lawyer and legislator in preference to the distinguished jurists of the country. However, my Honourable friend, Mr. B. Das, deserves to be congratulated for rushing into a realm where distinguished lawyers like our revered Leader of the Opposition, Mr. Bhulabhai Desai, Mr. Jinnah, and Mr. Aney fear to tread. Sir, I do not for a minute challenge the *bona fides* of my Honourable friend, Mr. B. Das, in moving this Bill. But I think that, in doing so, he is following the example of a monkey who crushed the head of his master with a big stone in order to kill a fly which was sitting on the head of the master.

An Honourable Member: Which is the fly?

Sir Muhammad Yakub: This Act is the fly, and the master is Provincial Autonomy, which we are soon going to get, and my friend, 5 P.M. Mr. B. Das, by moving his Bill, wants to crush the very head of the Constitution which we are soon going to have in our own country. It is well-known that a country with a democratic constitution stands much more in need of stringent measures, in order to keep peace in the country, than the countries which are ruled either by autocrats or dictators. In a country where the word of the dictator or monarch is law, you do not require any stringent measures to keep down anarchy or the elements of lawlessness. The revered Ata Turk of Turkey, the dictator of Italy and Hitler can, by their own word, destroy any association or do whatever they like. They possess the powers which my friend, Mr. Sri Prakasa, who spoke this morning, attributed to certain kings. If India were ruled by rulers who could do or undo anything without law, then probably the country would not stand in need of any stringent measures. What are the conditions in India? In India, we are on the threshold of new reforms, when the people of this country will soon have the power of maintaining

[Sir Muhammad Yakub.]

law and order and for the first time democratic institutions would be given a trial. Is it right and just that we should deprive our own Ministers of the power which they would require in order to maintain law in the country?

An Honourable Member: Have they asked for it?

Sir Muhammad Yakub: When they are in office, they will probably be as vociferous in making a request for a measure like this as my friends are today in seeking its repeal. We know very well that many of these gentlemen, when they are put in office, for which they are hankering, will prove more autocratic than the white autocrats in this country.

Now, Sir, one cannot shut one's eyes to the realities of the situation. We know that forces of communism, terrorism and Bolshevism are taking root in India. It is a matter of history that Russia has for a long time been a dead enemy of India. It was the enemy of India under the reign of the Czars, and it is an enemy of India under the reign of the Bolsheviks. We know as a matter of fact that Bolshevik money is creeping into India in order to help and support Bolshevism in this country. And here I would ask a simple question of the Honourable the Home Member. I would ask him to tell me, if this small Act is repealed, what is the weapon in the armoury of Government with which they would meet the forces of terrorism and Bolshevism in this country?

The Honourable Sir Henry Craik: Against communism this Act is our only effective weapon. There are other Acts directed against terrorism.

Sir Muhammad Yakub: The answer is quite clear. This is the only Act on the Statute-book by which you can meet Bolshevism in India.

(Interruption by Members on the Congress Benches.)

Sir Cowasji Jehangir: We have heard an Honourable Member in those Benches in absolute silence for two hours.

Mr. President (The Honourable Sir Abdur Rahim): The Chair would ask Honourable Members to let Sir Muhammad Yakub go on with his speech without interruption.

Sir Muhammad Yakub: My friends may ridicule the facts if they like. They may use sarcastic language, as was used this morning by an Honourable friend on my right, but the fact is that only this morning we have read in the papers that raids were made in four or five cities in my own province and Bolshevik literature was found and seized. This clearly shows that Bolshevism is taking root in this country and it must be the duty of every patriotic citizen in India to do his best to remove and to eradicate the evil as soon as possible.

Some of my friends have given instances of the abuse of power by Government officials in administering this small Act. I do not deny the charge. It may be so. To err is human, and Government officers are after all men. They are not angels. It may be that under some provocation they may have abused this law, as the peaceful Congress volunteers

have, more than once, been guilty of the worst form of maltreatment when they were making the so-called peaceful demonstration of their processions and non-violent picketing on shops. I know that people were not allowed to take water, I know that the bodies of certain dead persons could not be buried because cloth for wrapping the dead body could not be bought, since there was a forced *hartal* in the town. I know how a serious riot took place in Cawnpore when hundreds of my co-religionists men, women, and children lost their life, because the Mussalmans were asked to close their shops in order to observe Bhagat Singh Day, which they did not want to do. It is no use giving instances of abuse. If certain officers are provoked to abuse a very good enactment this can be no justification for saying that the Act must be repealed.

Mr. President (The Honourable Sir Abdur Rahim): Has the Honourable Member very much more to say?

Sir Muhammad Yakub: I have something more to say.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member can continue his speech on a later day.

The Assembly then adjourned till Eleven of the Clock on Friday, the 7th February, 1936.