

10th February 1936

THE  
LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

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Volume I, 1936

*(3rd February to 14th February, 1936)*

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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.**

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# LEGISLATIVE ASSEMBLY.

*Monday, 10th 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.

## MEMBERS SWORN.

Lieut.-Colonel Sir Henry Gidney, Kt., M.L.A. (Nominated Non-Official); and

Dr. John Matthai, C.I.E., M.L.A. (Government of India: Nominated Official).

## QUESTIONS AND ANSWERS.

### PROPOSAL OF SETTLEMENT OF BRITISH LABOUR IN INDIA.

184. **\*Mr. Akhil Chandra Datta:** (a) Is there any scheme or proposal of Settlement of British Labour in India?

(b) Has there been any correspondence between the Secretary of State for India and the Government of India on the question whether room can be made in India for the surplus population of the United Kingdom? If so, will Government be pleased to lay it on the table?

**The Honourable Sir Frank Noyce:** (a) and (b). None whatever.

### EFFECT OF THE CLOVE GROWER'S ASSOCIATION DECREE AND THE CLOVE EXPORTERS DECREE UPON INDIANS ENGAGED IN THE CLOVE TRADE IN ZANZIBAR.

185. **\*Mr. Akhil Chandra Datta:** (a) Has any enquiry been made as to the effect of the Clove Grower's Association Decree of 1934 and the Clove Exporters Decree of 1934 upon the Indians engaged in the clove trade in Zanzibar? If so, will Government please state what was the machinery employed for such enquiry and what were the facts ascertained?

(b) Will Government please lay on the table the report, if any, submitted as a result of such enquiry?

(c) Is it a fact that agreeably to the recommendations of Mr. Menon, Government represented to the Secretary of State for India that action should be taken in order to modify the Clove Grower's Association Decree of 1934? If so, has any action been taken? If not, has any further step been taken by Government? If not, why not?

**Sir Girja Shankar Bajpai:** (a) and (b). The Government of India have employed no agency of their own, since Mr. Menon's deputation, to assess the actual effect of the Decrees referred to by the Honourable Member. Information on the subject has, however, been supplied by the Imperial Citizenship Association in a letter, dated the 30th November, 1935, which has already been published.

(c) The answer to the first part of the question is in the affirmative. As regards the remainder, I would invite the attention of the Honourable Member to the reply given by me on the 5th February, 1936, to Mr. Satyamurti's question No. 61.

**Mr. S. Satyamurti:** May I know if Government's attention has been drawn officially to the report of the riots in Zanzibar which appeared in the press, I believe, yesterday?

**Sir Girja Shankar Bajpai:** That does not, strictly speaking, arise out of this question, but I may inform my Honourable friend that, as soon as I saw the report, I telegraphed to London for information, but I have had no information yet.

**Mr. S. Satyamurti:** May I know if the attention of Government has been drawn to the statement of Mr. Tyabji made in Bombay yesterday, appearing in this morning's papers, on the situation in Zanzibar?

**Sir Girja Shankar Bajpai:** Mr. Tyab Ali,—to give him his correct name,—arrived in Bombay on the day before yesterday and he is expected here tonight. I hope to be able to confer with him tomorrow.

**Mr. T. S. Avinashilingam Chettiar:** Have they received any complaints about the working of these Zanzibar Decrees?

**Sir Girja Shankar Bajpai:** That is an old story; we discussed that at great length at Simla.

**Mr. T. S. Avinashilingam Chettiar:** Have they received any fresh complaints about the working of these Decrees?

**Sir Girja Shankar Bajpai:** I have had no information on the subject since the deputation to which I have referred waited on me in December, 1935.

#### INTERESTS OF INDIAN NATIONALS IN ZANZIBAR.

186. **\*Mr. Akhil Chandra Datta:** (a) Do Government propose to take any steps to safeguard the interest of Indian Nationals in Zanzibar?

(b) Have Government considered whether it is in their power to take effective steps for protecting Indian interests and vindicating India's honour in Zanzibar?

(c) Have Government considered the advisability of adopting retaliatory measures and tariff duty on imports from Zanzibar?

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

**Mr. S. Satyamurti:** What is the answer to clause (b)?

**Sir Girja Shankar Bajpai:** That was discussed at great length in Simla last September, and my Honourable friend's Deputy Leader, Pandit Govind Ballabh Pant, had to say something on the subject.

**Mr. S. Satyamurti:** I want to know what Government have to say on the subject. What is the conclusion of Government on the subject referred to in clause (b) of the question, that is to say, the effective steps which they think they can take to protect Indian interests and vindicate India's honour in Zanzibar?

**Sir Girja Shankar Bajpai.** So far as Government are concerned, their position is that they are taking such effective steps as they can.

**Mr. S. Satyamurti:** May I know what they are?

**Sir Girja Shankar Bajpai:** Representation to His Majesty's Government.

**Mr. S. Satyamurti:** Anything else?

**Sir Girja Shankar Bajpai:** That seems to be enough for the present.

**Mr. T. S. Avinashilingam Chettiar:** What is the answer to clause (c)?

**Sir Girja Shankar Bajpai:** I have already answered that in the affirmative.

**Mr. S. Satyamurti:** What is the conclusion on their consideration of the advisability of adopting retaliatory measures?

**Sir Girja Shankar Bajpai:** I have already said with regard to that that we have been considering the matter.

**Mr. S. Satyamurti:** What is the conclusion on that consideration?

**Sir Girja Shankar Bajpai:** The stage for reaching a definite conclusion has not yet been reached.

**Mr. S. Satyamurti:** Will it ever come?

**Sir Girja Shankar Bajpai:** That is asking me to prophesy; I cannot say.

#### REVISION OF THE INDIAN RAILWAYS GENERAL CLASSIFICATION OF GOODS.

187. **\*Mr. Akhil Chandra Datta:** (a) Will Government be pleased to state if the Indian Railway Conference Association have submitted any report and recommendation to the Railway Board on the question of the revision of the Indian Railways General Classification of Goods? If so, will Government please lay it on the table?

(b) Have Government come to any decision on the maximum and minimum charges on the Indian Railways? If so, will Government be pleased to state the scheme of revision? If not, will Government be pleased to state how the matter now stands and whether they propose to expedite the decision?

**The Honourable Sir Muhammad Zafrullah Khan:** (a) The Railway Board have received from the Association a communication embodying their views, which briefly are, that for the present all that is required is a simplification of goods tariffs and the adoption of measures to facilitate the speedy

quotation of accurate rates, and recommending that action should be taken in these directions. The communication was not intended for publication and I am unable, therefore, to lay a copy on the table.

(b) The matter is under consideration at present.

**Mr. S. Satyamurti:** May I know if Government's attention has been drawn to the recommendation of the Public Accounts Committee that it is their impression that at present the freight rates in India are so made as to facilitate import of manufactured articles and export of raw products, and whether they have examined that question?

**The Honourable Sir Muhammad Zafrullah Khan:** Government realise that there has been a change taking place in the kind of traffic offering for railways; that is to say, that long-lead traffic to and from the ports is being substituted by short-lead traffic regarding the internal movement of goods; and Government are taking steps to adjust their freight policy to that change.

**Mr. S. Satyamurti:** May I know if, in considering those steps, Government have in mind the overpowering consideration of increasing the railway revenues?

**The Honourable Sir Muhammad Zafrullah Khan:** Yes, Sir.

CIRCULATION OF ANNUAL REPORTS OF THE GOVERNMENT OF INDIA  
DEPARTMENTS TO THE MEMBERS OF THE CENTRAL LEGISLATURE.

188. \***Mr. T. S. Avinashilingam Chettiar:** (a) What are the departments of the Government of India which publish their administration reports annually?

(b) Which of the departments do not publish any reports of their work annually?

(c) Among the published reports which are circulated to the members of the Central Legislature?

(d) Are Government prepared to consider the advisability of circulating all the annual reports of the various departments of the Government of India to the members of the Central Legislature?

**The Honourable Sir Henry Craik:** (a) (1) Railway Department.

(2) Imperial Council of Agricultural Research.

(3) Finance Department. (Certain attached and subordinate offices.)

(4) Education, Health and Lands Department. (Certain attached and subordinate offices.)

(5) Industries and Labour Department and certain attached and subordinate offices.

(6) Home Department.

(b) (1) Foreign and Political Department.

(2) Reforms Office.

(3) Legislative Department.

(4) Legislative Assembly Department.

- (5) Defence Department.
- (6) Military Finance Department.
- (7) Commerce Department.
- (c) (1) Report of the proceedings of the Imperial Council of Agricultural Research and of all work undertaken during the year.
- (2) Report on the accounts of the Imperial Council of Agricultural Research.
- (3) Annual Report on the Indian Posts and Telegraphs Department.
- (4) "India" (Moral and Material Progress Report).

Copies of other publications are generally placed in the Library of the House.

(d) The position regarding the supply of Government publications to Members of the Legislature has already been explained in the reply given on the 27th February, 1935, by the Honourable Sir Frank Noyce to part (d) of Mr. M. Ananthasayanam Ayyangar's unstarred question No. 121 and the reply given on the 24th September, 1935, by Mr. Clow to Mr. Joshi's starred question No. 652.

The cost of supplying all the reports to the Members of the Central Legislature would be great and some of them are on technical subjects which may not be of general interest. Government do not, therefore, propose to follow the course suggested.

**Mr. T. S. Avinashilingam Chettiar:** With reference to clause (b), how do Government review the work of these departments if they do not publish any annual reports?

**The Honourable Sir Henry Craik:** I do not think it is necessary to have annual reports in order to give Government a general conspectus of the work of departments.

**Mr. T. S. Avinashilingam Chettiar:** What is the way in which the public can know the work of these departments?

**The Honourable Sir Henry Craik:** The Honourable Member had better address the departments concerned.

**Mr. M. Ananthasayanam Ayyangar:** What will be the approximate cost of printing additional copies for supply to Members of the Legislature?

**The Honourable Sir Henry Craik:** I am afraid I have no information that will enable me to answer that question.

**Prof. N. G. Ranga:** Is it not a fact, Sir, that many of these publications are burnt, because there are no buyers for them?

**The Honourable Sir Henry Craik:** I have never heard of that.

#### ESTABLISHMENT OF A STANDING COMMITTEE FOR THE ARMY.

189. \***Mr. T. S. Avinashilingam Chettiar:** Will Government state:

- (a) Whether they are aware of the promise of the Army Secretary in the last Simla Session to consider the advisability of establishing a Standing Committee for the Army?

(b) Whether Government have considered the proposal? If so, with what result?

**Mr. G. R. F. Tottenham:** (a) and (b). The Honourable Member is referred to the debate on this subject which took place on February 4th.

**Mr. T. S. Avinashilingam Chettiar:** Have they considered the Resolution of this House on the subject, Sir?

**Mr. G. R. F. Tottenham:** No, Sir. They have not been able to find time.

**Mr. Lalchand Navalrai:** May I know from the Honourable Member if Government are going to set up a Standing Committee for Army in any form at any time?

**Mr. G. R. F. Tottenham:** If the Honourable Member had read my speech or listened to my speech, he would have realised that there was no intention to do so at present. I cannot promise what may happen under the new Constitution.

**Sardar Mangal Singh:** Has there been any correspondence between the Secretary of State and the Government of India on the subject?

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

**Sardar Mangal Singh:** Will they lay it on the table of the House?

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

**Mr. S. Satyamurti:** In view of the last answer of the Defence Secretary, may I know what he means by saying that Government will not consider the Resolution, until the new Constitution starts?

**Mr. G. R. F. Tottenham:** I did not say that. I said that Government had not yet made up their minds formally and finally on the result of the Resolution in the Assembly.

**Mr. S. Satyamurti:** May I know, Sir, whether Government will consider the Resolution that has been passed *nem. con.* by this Assembly?

**Mr. G. R. F. Tottenham:** No doubt they will do so.

**Mr. D. K. Lahiri Chaudhury:** May I know how long they will take to come to a definite decision on the Resolution?

**Mr. G. R. F. Tottenham:** I could not say that; not very long.

#### COUNTRIES PUTTING BAN ON INDIAN PRODUCTS.

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

(a) what are the countries that are still putting a ban, partial or complete, over Indian products;

- (b) what negotiations are Government carrying on with any of them to remove those bans; and  
 (c) if so, with what results?

**The Honourable Sir Muhammad Zafrullah Khan:** The Honourable Member is referred to the reply given by me to parts (a), (c) and (d) of his starred question No. 6 on the 2nd September, 1935. I have nothing to add to it.

**Mr. T. S. Avinashilingam Chettiar:** Am I to understand that after September no negotiations have been carried on with any country?

**The Honourable Sir Muhammad Zafrullah Khan:** The matter rests exactly where it was then. There have been no fresh developments.

#### TRADE NEGOTIATIONS WITH IRAN.

191. **\*Mr. T. S. Avinashilingam Chettiar:** Will Government state:
- (a) whether it is true that Government are carrying on trade negotiations with Iran;
  - (b) what the purpose of these negotiations is;
  - (c) whether in view of these negotiations any of the present customs tariffs have been altered;
  - (d) whether any preference has been given to any articles from Iran and whether Iran gives any preference to Indian articles; and
  - (e) the effect of these negotiations?

**Sir Aubrey Metcalfe:** (a) Answer is in the negative.  
 (b)—(e). Do not arise.

#### APPOINTMENT OF INDIAN DELEGATES TO THE LEAGUE OF NATIONS.

192. **\*Sardar Mangal Singh:** Will Government please state:
- (a) who is the appointing authority of the delegates to represent India on the League of Nations;
  - (b) who issues the letter of appointment, the Government of India or the Secretary of State;
  - (c) who appoints their leader and how many times Indians have led the delegation;
  - (d) who prepares their briefs and instructions; and
  - (e) to whom they submit their reports?

**The Honourable Sir Nripendra Sircar:** (a) and (c). The Indian delegates to the Assembly of the League including the Leader are appointed by the Secretary of State acting in consultation with the Government of India. The Leader of all delegations from 1929 to date has been an Indian.

(b) No letter of appointment is issued. A press communiqué announcing the appointments is issued simultaneously in India and England after it has been ascertained that the delegates selected are willing to serve.



(d) The briefs which constitute the instructions to the Delegates are prepared by the Secretary of State in consultation with the Government of India.

(e) The Secretary of State.

**Mr. T. S. Avinashilingam Chettiar:** Before appointment, is any undertaking taken from those members that they must represent only the briefs which the Secretary of State prepares for them, or are they at liberty to say what they think is right?

**The Honourable Sir Nripendra Sircar:** No written undertaking or verbal undertaking is taken from anybody.

**Mr. T. S. Avinashilingam Chettiar:** Is there an understanding?

**The Honourable Sir Nripendra Sircar:** Naturally that is the understanding.

**Mr. T. S. Avinashilingam Chettiar:** Are any non-official bodies consulted before appointments are made?

**The Honourable Sir Nripendra Sircar:** No.

**Mr. S. Satyamurti:** With reference to clause (d) of the question, may I know if the Secretary of State and the Government of India have always agreed with regard to these briefs, or have there been any case of difference of opinion, and, if so, whose opinion prevails?

**The Honourable Sir Nripendra Sircar:** I am not willing to give information on that point, because the communications are confidential, and it is not in the public interest to disclose them.

**Sardar Mangal Singh:** Will Government consider the question that the delegation to the League of Nations should be appointed by the Government of India and not by the Secretary of State?

**The Honourable Sir Nripendra Sircar:** We shall have to consider the constitutional position, but there is no objection to consider the situation which has been put in the question.

#### INDIAN STATES AND THE LEAGUE OF NATIONS.

193. \***Sardar Mangal Singh:** Will Government please state:

- (a) whether the British India alone is a member of the League of Nations or the whole of India including the Indian States;
- (b) if the whole of India is a member, do the Indian States contribute any thing to the Indian contribution to the League of Nations; if so, what amount;
- (c) whether the decision of the League of Nations and labour conventions are enforced in the States; if not, why not; and
- (d) in what States the labour conventions are enforced and to what extent?

**The Honourable Sir Nripendra Sircar:** (a) India, including the Indian States.

(b) The Indian States do not contribute anything.

(c) and (d). Government are not in a position to make any statement regarding action taken in those parts of India which are not included in British India.

**Mr. Lalchand Navalrai:** May I know from the Honourable Member why the States do not contribute anything?

**The Honourable Sir Nripendra Sircar:** I was asked this question once and I answered it to the best of my ability. I said that why they do not contribute or why they should contribute was mixed up with many more difficult questions as to whether they should contribute for the Army or not, and so on. I cannot say any further than what I said on the last occasion.

**Sardar Mangal Singh:** Who pays the expenses of this Delegation?

**The Honourable Sir Nripendra Sircar:** They are paid out of the revenues of the Government of India.

**Sardar Mangal Singh:** And who pays the expenses of the Prince who is always included in the delegation?

**Mr. G. H. Spence:** A Prince is not always included in the delegation.

**Mr. N. M. Joshi:** Who pays the expenses of the representative of the Indian States on the delegation?

**Mr. G. H. Spence:** The expenses of the delegation as a whole are paid from Indian revenues. The Honourable Member is incorrect in referring to the representative of the States. Every member of the delegation, including any member drawn from the States, represents India as a whole.

**Sardar Mangal Singh:** Is it a fact that there is always one Prince in the delegation?

**Mr. G. H. Spence:** There is not. There is always one person drawn from the States; he was in earlier years normally a Prince; in recent years he has not been a Prince.

**Mr. S. Satyamurti:** Why should the State not pay the expenses of that person at least?

**Mr. G. H. Spence:** I have nothing to add on that to what has been already said by the Law Member.

**Mr. M. Ananthasayanam Ayyangar:** Have any representations been made to the States to carry out any of the decisions passed by the League?

**The Honourable Sir Nripendra Sircar:** Representations made by whom?

**Mr. M. Ananthasayanam Ayyangar:** By the Government of India.

**The Honourable Sir Nripendra Sircar:** Not that I now think of—but it is possible.

**Mr. M. Ananthasayanam Ayyangar:** Why not, Sir?

RE-ORGANISATION OF THE INDIAN ARMY VETERINARY CORPS.

194. \***Sardar Mangal Singh:** (a) Will Government please lay on the table of this House a copy of the circular letter issued by the Army Department regarding the reorganisation of the Indian Army Veterinary Corps?

(b) Is it a fact that according to the new scheme, the Veterinary Assistant Surgeons will be recruited as Warrant Officers and will serve as such throughout their whole career?

(c) Will Government please state whether it is a fact that the Veterinary Assistant Surgeons serving before the 15th January, 1935, were recruited on the express condition that they would be eligible for promotion up to the rank of Risaldar Major?

(d) Is it a fact that under the new scheme the Veterinary Assistant Surgeons serving before 1935 have been deprived of the right of the promotion to the rank of Risaldar Major without any corresponding compensation?

(e) Is it a fact that in no other similar case such as I. M. D. and I. A. S. C., the right of promotion to the highest rank provided under the regulations has been taken away?

(f) Will Government please state whether they are prepared to reconsider their case and restore to them the right of promotion to the rank of Risaldar Major or suitably compensate them in any other manner? If not, why not?

**Mr. G. B. F. Tottenham:** (a) A copy of the letter is laid on the table.

(b) Yes.

(c) No. The rank of Risaldar Major was only introduced in the Indian Army Veterinary Corps in 1924, and it was then laid down that it might be conferred in special cases on officers of exceptional merit up to a maximum of five.

(d), (e) and (f) There was no such right.

Regr. No. 1950-Q(A. D. 5).

No. 31799/1/Q.-11.

GOVERNMENT OF INDIA.

A R M Y D E P A R T M E N T.

*Simla, the 23rd June, 1935.*

To

The Quartermaster General in India.

*Indianization in the Army Veterinary Service in India.*

Sir,

The Secretary of State has sanctioned, with effect from the 15th January, 1935, the following changes in the organization of the Indian Army Veterinary Corps:

(a) The progressive reduction of the British cadre of Royal Army Veterinary Corps of officers from 42 to 37.

- (b) The progressive increase of the Indian Cadre up to a total of 60 Indian Commissioned officers.
- (c) The reduction in the number of Veterinary Assistant Surgeons from 126 to 94.

2. The method of effecting gradual replacement of personnel to readjust the existing cadre is shewn in the enclosure to this letter. This is based on normal wastage.

3. The terms and conditions of service of *Indian Commissioned Officers*, are as follows :

- (a) The rates of pay for the officers up to the rank of Captain are given in Army Department letter No. B-28060 (A. G. 10), dated the 22nd February, 1935; and Army Instruction (India), No. 42-1935.

The rates of pay for Majors and senior ranks of the Indian Army Veterinary Corps are still under consideration.

(b) Conditions of service in regard to :

- |   |   |   |
|---|---|---|
| <ul style="list-style-type: none"> <li>(i) Qualifications,</li> <li>(ii) Entrance examination.</li> <li>(iii) Promotion,</li> <li>(iv) Retirement,</li> <li>(v) Leave,</li> </ul> | } | are laid down in Army Department letter No. 21505-3/Q-11, dated 23rd October, 1934, on the subject of employment of Indians as commissioned officers in the Indian Army Veterinary Corps. |
|---|---|---|

4. *Veterinary Assistant Surgeons*.—From the 15th January, 1935, all Veterinary Assistant Surgeons will be enrolled and serve as warrant officers. No promotions will be made to Risaldar Major, when vacancies occur and the appointments thus lapsing will be replaced by appointments to be filled by Indian Commissioned officers.

Jemadars will continue to receive promotion to Risaldar up to a proportion of 18 per cent. of the total establishment of Viceroy's Commissioned officers serving.

Warrant officers serving before the 15th January, 1935, will be promoted to Jemadar after five years' service in accordance with their agreements, and will draw the new incremental pay (see sub-paragraph (c) below).

*Conditions of service for Warrant Officers, Indian Army Veterinary Corps.*

- (a) *Qualifications* will remain as at present laid down in Veterinary Regulations, India.
- (b) *Enrolment*. Warrant officers, Indian Army Veterinary Corps, will be enrolled for 21 years which may be extended in special cases. They will be given the option of leaving the service after 10 years' service (see sub-paragraph (d) below).
- (c) *Pay*. The rates of pay will be :

	Rs.
Initial . . . . .	60—3—90
After 10 years . . . . .	90—5—115
After 15 years . . . . .	115—10—165

- (d) *Gratuity*. A gratuity of 1 month's emolument for each completed year of service will be payable to Warrant Officers retiring after 10 years' and with less than 15 years' service.
- (e) *Pension*. The rates of pension will be published later.
- (f) *Invalid pensions and gratuity*. Invalid pension and gratuity will be payable as laid down in paragraph 203, Pension Regulations for the Army in India.

- (g) *Honorary Rank.* The honorary rank of Risaldar will be granted to Warrant Officers retiring after 21 years' service and the honorary rank of Jemadar to those retiring after 15 years' and with less than 21 years' service.

I am, Sir,

Your most obedient servant,

(Sd.) A. F. R. Lumby,

Lieutenant-Colonel,

Depty. Secy. to the Govt. of India.

No. 31799/2/Q.-11.

Copy of the above forwarded to the Financial Adviser, Military Finance (with reference to his unofficial No. 3531/Q.-A. of 1935), for communication to the Military Accountant General, the Director of Army Audit, all Controllers of Military Accounts; the Chief of the General Staff; the Adjutant General in India; the Master-General of the Ordnance in India; the Engineer-in-Chief, Army Headquarters, the Military Secretary, Army Headquarters, the Air Officer Commanding, Royal Air Force in India.

(Sd.) A. F. R. Lumby,

Lieutenant-Colonel,

Depty. Secy. to the Govt. of India.

*Gradual replacement of personnel to readjust existing cadre establishments.*

Years.	British Cadre.			Indian Cadre.									
	British officers.			British officers.			Indian Commissioned officers.			Veterinary Assistant Surgeons.			
	Remaining establishment.	Decrease.	Total establishment.	Remaining establishment.	Decrease.	Total establishment.	Remaining establishment.	Increase.	Total establishment.	Remaining establishment.	Increase (W. Os.).	Decrease (V. C. Os.).	Total establishment.
1935 . . .	42	...	42	22	1	19	...	10	10	126	...	3	123
1936 . . .	42	...	42	19	...	19	10	4	14	123	...	5	118
1937 . . .	42	1	41	19	...	19	14	3	17	118	...	4	114
1938 . . .	41	1	40	19	...	19	17	3	20	114	3	5	112
1939 . . .	40	...	40	19	...	19	20	3	23	112	5	8	109
1940 . . .	40	...	40	19	...	19	23	3	26	109	6	9	106
1941 . . .	40	1	39	19	...	19	26	3	29	106	2	4	104
1942 . . .	39	...	39	19	2	17	29	4	33	104	6	8	102
1943 . . .	39	...	39	17	1	16	33	4	37	102	8	11	99
1944 . . .	39	1	38	16	...	16	37	4	41	99	3	6	96
1945 . . .	38	1	37	16	...	16	41	3	44	96	4	6	94
1946 . . .	37	...	37	16	5	11*	44	5	49	94	9	9	94
Total increase or decrease	...	5	...	...	11	...	...	49	...	...	46	78	...

\*The remaining 11 British Officers will waste out by about 1956, being replaced by I. C. Os.

**Sardar Mangal Singh:** Is it not a fact that they were eligible for the rank of Risaldar Major?

**Mr. G. R. F. Tottenham:** I have just said that it was laid down that the rank of Risaldar Major might be conferred in special cases on officers of exceptional merit up to a maximum of five.

**Sardar Mangal Singh:** That right has now been taken away without providing for any corresponding compensation.

**Mr. G. R. F. Tottenham:** It was not a right, it was a concession and there has been considerable corresponding compensation in the fact that a large number of Indians are now eligible for commissions in the Indian Army Veterinary Corps, which was not previously the case.

**TERMS OF AGREEMENT CONCLUDED WITH THE MOHMANDS.**

195. \***Sardar Mangal Singh:** (a) Will Government please state the terms of agreement concluded with the Mohmands?

(b) Will Government please state whether:

- (i) the new road from Yusafkhel to Nahakki has been left unprotected; and
- (ii) they have obtained any guarantee from the tribal Chiefs that this road would be kept in a good condition?

(c) Who will be responsible for its repairs?

(d) Will Government please state whether it is a fact that one of the demands of the Mohmand Jirga was the restoration of the Shahid Ganj Mosque to the Muslims? If so, what reply Government gave to them?

**Sir Aubrey Metcalfe:** (a) The terms of the agreement executed by the Maliks on behalf of the Mohmands on the 15th October, 1935, are as follows:

"(i) We and our tribe will maintain friendly relations with the British Government and with the friends of the British Government.

(ii) We will be responsible for the unlawful action of outlaws from British Territory and bad characters and *hamsayas* of our tribe against Government and against the friends of Government."

(b) (i) Yes. It was explained to the tribe that Government had no intention of protecting this portion of the road, and that they would not be responsible for the safety of tribesmen using it.

(ii) No.

(c) The road being constructed out of the rocky hill-side would ordinarily speaking not call for maintenance, and would not be maintained in the ordinary sense of the word. At the same time, Government, if need should arise, held itself free at any moment to undertake such repairs as might be necessary. This was explained to the tribe.

(d) Yes. The tribe were informed that the feelings of Muslims in the matter were fully realised and that all possible steps were being taken to bring about reconciliation and a settlement of this affair.

**Mr. Lalchand Navalrai:** Is there any promise given to them in case there is no agreement between the parties, if there is no reconciliation?

**Sir Aubrey Metcalfe:** I have explained to the House what information was given to them, and I have nothing to add to that.

**Mr. Lalchand Navalrai:** This arises with regard to clause (d)—this is not covered by the answer given.

**CREATION OF AN AGRICULTURAL CREDIT DEPARTMENT BY THE RESERVE BANK OF INDIA.**

196. **\*Mr. Akhil Chandra Datta:** (a) Has the Reserve Bank of India created a Special Agricultural Credit Department as contemplated by section 54 of the Reserve Bank of India Act, 1934?

(b) Has any expert staff been appointed under sub-section A of that section? If so, have any questions been formulated for their study?

(c) What action, if any, has been taken under sub-section B of that section?

**The Honourable Sir James Grigg:** Mr. Darling was appointed on special duty to report on the Co-operative and Agricultural Credit Movements to the Reserve Bank in order to assist the Bank in the formation of the Agricultural Credit Department. His reports are still being considered by the Bank which has asked the Government of India to obtain from Local Governments further information regarding Co-operative Banks and Credit Societies and other agencies engaged in the business of money-lending. The Bank propose to formulate their proposals for the creation of the Agricultural Credit Department when this further information is available.

**EDUCATIONAL SCHEMES IN CONNECTION WITH PROPOSED AGRICULTURAL DEPARTMENT.**

197. **\*Mr. Akhil Chandra Datta:** Have the Government of India received the views of the local Governments on the educational schemes recommended by Mr. M. L. Darling in connection with proposed Agricultural Department? If so, have Government formulated their decision thereupon?

**The Honourable Sir James Grigg:** As I have just stated, Sir, Mr. Darling's report was made to the Reserve Bank and is under the consideration of the Bank. Mr. Darling also reported on the Co-operative Movement in individual provinces and his reports have been sent to Local Governments. It is for Local Governments to take such action on these reports as they consider necessary. I might remind the Honourable Member that the Government of India have granted Rs. 15 lakhs to be distributed among the provinces for the purpose, among others, of co-operative education.

**RURAL UPLIFT GRANT SET ASIDE FOR THE DEVELOPMENT OF CO-OPERATIVE MOVEMENT.**

198. **\*Mr. Akhil Chandra Datta:** (a) Will Government please state how do they propose to spend the amount of 15 lakhs of rupees which has been set aside for developing the co-operative movement out of the amount of one crore of rupees granted for the rural uplift?

(b) Have Government issued any instructions as to the propaganda which the Government of Bengal propose to carry on through mass meetings in the village? What are the different subjects on which lectures are made in these mass meetings?

(c) Have Government issued any instructions as to the character of the news, instructions, and propaganda talks when the Bengal Government propose to deal with Midnapur district through wireless transmission?

(d) Will Government be pleased to state if any village halls and libraries have been established and if any village play grounds have been constructed out of the amount of one lac and eighty thousand which the Government of Bengal has set aside out of the grant of 16 lacs made to them for rural development? Has any firm or dairy or workshop been attached to any village schools out of that fund?

**The Honourable Sir James Grigg:** (a) The allocation of the grant of Rs. 15 lakhs set apart by the Government of India for assisting the Co-operative Movement in the provinces has been made generally on the basis of the strength of membership of primary societies in each province. The amounts allotted to Local Governments are to be spent on approved schemes covering a period of three to five years for the training of the staff and for instructing members of Co-operative Societies in the elementary principles of co-operation.

(b) and (c). No.

(d) The Local Governments have been requested to furnish reports as to the actual progress of the schemes, and these reports will in due course be laid before the House.

**Mr. S. Satyamurti:** Are Government aware that the Government of Bengal propose to carry on propaganda through mass meetings in villages—clause (c) of the question?

**The Honourable Sir James Grigg:** The answer to that is no.

**Mr. S. Satyamurti:** Are Government aware that such mass meetings are contemplated by the Local Government?

**The Honourable Sir James Grigg:** No, I was not aware of that.

**RURAL UPLIFT GRANT ALLOCATED AS DISCRETIONARY GRANTS TO THE COMMISSIONERS AND DISTRICT OFFICERS.**

199. **\*Mr. Akhil Chandra Datta:** Will Government please state how the amount of two lacs seventeen thousand and eight hundred which has been allocated as discretionary grants to the Commissioners and District Officers has actually been spent?

**The Honourable Sir James Grigg:** As stated on page 10 of the statement which was circulated to the Honourable Members in September last, the amounts allocated to the Commissioners and District Officers will be spent by them only on supplementary projects within the intention of the grant. As the amount at the disposal of each officer will be a small one, the Government of India leave it to the Local Governments to see that the amounts are properly utilised. They do not, therefore, propose to call for any details of expenditure under this particular item.

**SCHOLARSHIPS GRANTED FOR STUDIES ABROAD.**

200. **\*Mr. Akhil Chandra Datta:** Will Government be pleased to enumerate exhaustively the different scholarships given by the Government of India for sending men abroad from India for studies in different departments together with the value of each scholarship?

**Sir Girja Shankar Bajpai:** A statement giving the information asked for by the Honourable Member is laid on the table.



*Statement showing the scholarships awarded by the Government of India for study abroad.*

Serial No.	Nature of the scholarship and Department awarding it.	Value of the scholarship.	Period of scholarship.	Whether annual or periodical.	Remarks.
1.	Education, Health and Lands, Central State Scholarship (for higher studies).	Ranging from £216 to £335 per annum.	Three years	Annual	This scholarship is awarded every year to a student who is by birth or domicile a native of territory under the administrative control of the Government of India, including Aden, Delhi, Ajmer-Merwara, Baluchistan, Bangalore, or any administered area in an Indian State.
2.	Railway Department (Training in the Mechanical Engineering and Electrical Engineering Departments of the Superior Revenue Establishment of the State Railways).	£250 per annum	From 2 to 2½ years.	Whenever necessary.	This scholarship is granted to special class apprentices recruited for training in the Mechanical Engineering Transportation (Power) and Electrical Engineering Departments of the Superior Revenue Establishment of the State Railways. The scholarship awarded for Mechanical Engineering is tenable for two years while that for Electrical Engineering for two and a half years.
3.	Industries and Labour Department. (Training in Printing and Allied Trades).	£240 per annum	Three years	Annual	This scholarship is awarded to apprentices who have had about two years training in the Government of India Presses.
4.	Industries and Labour Department. (Training in Aviation).	£240 per annum till 1934-35. From 1935-36 £216 per annum.	Two to Three years.	From time to time as required.	Scholars are trained abroad from time to time according to the requirements of Government.

**APPOINTMENT OF TWO EXPERTS TO THE INCOME-TAX ENQUIRY COMMITTEE.**

201. \***Mr. Akhil Chandra Datta:** Will Government be pleased to state :

- (i) whether the two expert Advisers, Messrs. C. V. Ayers and S. P. Chambers. appointed to conduct a review of the Indian income tax system and administration have any previous experience of India and the Indian system;
- (ii) how long have they been in actual touch with the Income Tax System and administration in England;
- (iii) what were their specific duty and function in England;
- (iv) what pay did they or do they receive in England;
- (v) what is the pay on which they have been appointed for their labour in India and whether they will get any allowance over and above their pay;
- (vi) what is the total amount set aside for meeting the expenditure of this enquiry;
- (vii) whether the Honourable the Finance Member, before making their appointment, considered whether there was anybody in India, official or non-official, competent to conduct the investigation;
- (viii) what was the principle or consideration on which these two experts were selected, and who selected them;
- (ix) whether Government have considered the advisability of associating non-official Indians with the experts to represent the views of the Indian commerce and trade and other income-tax payers, and if not, why not; and
- (x) if Government will kindly lay on the table the whole official correspondence relating to their appointment?

**The Honourable Sir James Grigg:** (i) No.

(ii) For the whole of their official lives.

(iii) Mr. Ayers is a Principal Inspector of Taxes, and Mr. Chambers an Inspector of Taxes.

(iv) and (v). I would refer the Honourable Member to part (c) of my answer to question No. 168.

(vi) Something under a lakh.

(vii) A senior officer of the Indian Income-tax Department has been associated with the Enquiry.

(viii) On their suitability for the task to be performed.

(ix) I would refer the Honourable Member to what I said on the subject in the Assembly on the 4th April last.

(x) No.

**Mr. S. Satyamurti:** With reference to the answer to clause (vii) of the question, apart from association, what is the specific answer to the question whether the Honourable the Finance Member considered whether there was anybody in India competent to actually conduct the investigation?

**The Honourable Sir James Grigg:** Surely that is implicit in the answer that I have given, that the investigation is being conducted by three persons one of whom is a senior officer of the Income-tax Department in India.

**Mr. S. Satyamurti:** Why were not all three Indians or persons serving in India?

**The Honourable Sir James Grigg:** Because I wanted the benefit of outside experience from a department which has got very much more experience and for a much longer time than the department in India.

**Mr. S. Satyamurti:** Does my Honourable friend's country import outsiders for such investigations?

**The Honourable Sir James Grigg:** When it suits them to do so.

**Mr. S. Satyamurti:** When did they do it last?

**The Honourable Sir James Grigg:** I do not know.

**Mr. M. Ananthasayanam Ayyangar:** Is it a fact that no competent men were available in England for a long time, and these men who have now come are third and fourth rate men?

**The Honourable Sir James Grigg:** No; that is absolutely untrue.

#### RATE CUTTING BY THE BRITISH INDIA STEAM NAVIGATION COMPANY BETWEEN CALCUTTA AND RANGOON.

202. \***Mr. Akhil Chandra Datta:** (a) Has the attention of Government been drawn to the resolutions passed in a public meeting at Albert Hall in Calcutta on the 8th November, 1935, published in *Advance* of 9th November, 1935:

- (i) protesting the rate cutting by the British India Steam Navigation Co. Ltd., relating to the passengers and cargo service between Calcutta and Rangoon; and
- (ii) urging Government to forthwith intervene in the matter and to enact legislation to put an end to uneconomic and ruinous competition?

(b) Have Government considered the advisability of giving effect to the aforementioned suggestions?

**The Honourable Sir Muhammad Zafrullah Khan:** (a) Government have seen a newspaper report of the proceedings at the meeting referred to by the Honourable Member.

(b) Government do not think it necessary to take any action in the matter.

**Mr. S. Satyamurti:** May I know why? Are Government satisfied that this economic rate war should go on?

**The Honourable Sir Muhammad Zafrullah Khan:** I have on several occasions, during the last Session and this Session, explained the position with regard to the Calcutta Rangoon run.

**RAISING THE PRICES OF PRIMARY PRODUCTS OF INDIA.**

203. \***Mr. Akhil Chandra Datta:** (a) Will Government be pleased to state if since his assumption of office, the Honourable the Finance Member, has adopted and formulated any plan for raising the prices of primary products of India and if any specific measures have been adopted to give effect to the said plan?

(b) If the answer to part (a) above be in the affirmative, will Government kindly lay the same on the table?

**The Honourable Sir James Grigg:** I would invite the attention of the Honourable Member to the reply given by me on the 5th February, 1935, to starred question No. 22 by Mr. Lalchand Navalrai.

**Mr. S. Satyamurti:** Have Government's attention ever been drawn to the unanimous recommendation of the delegation which went to Ottawa and of this Assembly Committee which examined it, that they must take effective steps to raise the prices of primary products of India? Have any steps been taken at all in that direction?

**The Honourable Sir James Grigg:** That is a question I answered in the answer I have referred to.

**Mr. S. Satyamurti:** May I know what are the steps taken and what the results of those steps are?

**The Honourable Sir James Grigg:** That is dealt with in the answer to which I have referred. I should think one of the results of those steps is the disproportion between the prices of manufactured goods as compared with primary commodities.

**Mr. S. Satyamurti:** What is that result due to in the opinion of the Honourable the Finance Member?

**The Honourable Sir James Grigg:** That is the result of the high protective policy of the Government of India.

**Mr. S. Satyamurti:** When did they take those steps then?

**The Honourable Sir James Grigg:** At various times.

**EXPENSES IN CONNECTION WITH THE LEGISLATIVE ASSEMBLY ELECTION.**

204. \***Dr. Bhagavan Das:** Will Government please state:

- (a) the total of the election expenses returned by the elected Members of this Assembly;
- (b) the total of the election expenses returned by the candidates for election to this Assembly who failed to secure election;
- (c) the total of the expenses incurred by the Government on the elections for this Assembly; and

(d) the total of the expenses of all kinds with the names of the latter, including the salaries and allowances, etc., of the Official Members, incurred by the Government on the Delhi Session of this Assembly in January—April, 1935, and the Simla Session in September, 1935?

**The Honourable Sir Nripendra Sircar:** (a) and (b). The Honourable Member is referred to the statement placed in the Library of the Indian Legislature in reply to part (d) of Sir Muhammad Yakub's unstarred question No. 237, asked on the 25th March, 1935.

(c) Elections to the Indian Legislature being a provincial subject, all expenses in connection therewith are defrayed from provincial revenues and the Government of India have no information in the matter.

(d)

Nature of Allowance.	Delhi Session, 1935.		Simla Session, 1935.		Remarks.
	Official Members.	Non-Official Members.	Official Members.	Non-Official Members.	
	Rs.	Rs.	Rs.	Rs.	The salaries of Official Members are a charge on provincial revenues.
Daily Allowance	19,040	1,79,590	5,800	64,320	
Travelling Allowance	3,347	37,518	5,440	44,355	
Road Mileage	71	1,039	40	757	
Conveyance Allowance	425	13,692	..	..	
Motor Haulage	2,170	23,943	..	..	
Total	25,053	2,55,782	11,280	1,09,432	

**Dr. Bhagavan Das:** May I know, Sir, if the Official Members have to undergo out-of-pocket expenses corresponding in any way with the election expenses which the Non-Official Members have to undergo?

**The Honourable Sir Nripendra Sircar:** No, Sir; officials have not to incur expenses, but, of all kinds of expenses Non-Officials have to incur, we really have no idea.

**Mr. S. Satyamurti:** Are Government considering any proposals to fix any maximum of election expenses?

**The Honourable Sir Nripendra Sircar:** No, Sir.

**Mr. S. Satyamurti:** Are Government considering any proposals to prescribe or rather fix a maximum for conveyance in connection with elections?

**The Honourable Sir Nripendra Sircar:** No.

**Mr. M. S. Aney:** May I know whether the forms of election returns were not prepared by the Government of India, and whether they do not know what items they have entered on those forms?

**The Honourable Sir Nripendra Sircar:** That does arise out of this, but we do know what does appear in the returns.

**Mr. M. S. Aney:** Can the Honourable Member then say that he has no idea of what expenses Non-Official Members have to incur?

**The Honourable Sir Nripendra Sircar:** No new question has been put to me.

#### SPENDING OF AMOUNT SANCTIONED FOR VILLAGE IMPROVEMENT.

**205. \*Dr. Bhagavan Das:** Will Government please state how the sum of one crore and some lakhs of rupees sanctioned for village improvement during the current year has been and is proposed to be spent, mentioning the main heads and amounts under each, especially the amount under the head of 'salaries'?

**The Honourable Sir James Grigg:** I would invite the attention of the Honourable Member to the statement laid on the table of the House on the 6th September, 1935, in reply to Mr. Basant Kumar Das's starred question No. 162. Copies of the statement were also circulated to all the Members of the House.

#### MAKING OF EDUCATION PURPOSIVE AND VOCATIONAL.

**206. \*Dr. Bhagavan Das:** (a) Have Government considered ways and means of making all lower and higher education definitely purposive and vocational, making it also prepare and train for taking up definite trades and industries and professions other than the clerical and the learned professions to which it is at present almost exclusively devoted?

(b) Have Government acquainted themselves fully with the ways and means practised in other countries, like Russia, Japan, United States of America, and now reported to have been initiated in Britain also, for giving such education?

(c) Have Government considered whether it is not possible to make the Universities responsible for giving such education to their alumni?

**Sir Girja Shankar Bajpai:** (a) to (c). As the Honourable Member is aware, the whole question of educational reconstruction in India was considered recently by the Central Advisory Board of Education of which my Honourable friend is a member. The recommendations made by the Board are being forwarded to Local Governments who may be expected to give them careful consideration. Like the Board the Government of India fully realise the importance of the question raised by the Honourable Member who may rest assured that the future progress of the initiative taken by the Board will be anxiously watched.

**Mr. Lalchand Navalrai:** May I know, Sir, if this Board has been advised to consider the question of having an equal or uniform standard of education in every Presidency?

**Sir Girja Shankar Bajpai:** Sir, the Board takes its own initiative in regard to all matters of this kind, and this particular point, as far as I know, has not been referred to it by anybody.

**Mr. Lalchand Navalrai:** Will the Honourable Member then refer this question to that Board?

**Sir Girja Shankar Bajpai:** Sir, my Honourable friend is free to address the Board direct.

**Dr. Bhagavan Das:** What are the answers to parts (b) and (c), Sir? I am sorry I could not follow them.

**Sir Girja Shankar Bajpai:** I gave a consolidated answer to the three parts, and I drew attention to the fact that the Central Advisory Board of Education had considered the whole question. My Honourable friend will remember that, as a Member of the Board, he drew pointed attention to the question whether what prevails in Russia, Japan and other foreign countries, had been considered by the educational authorities. After discussion of what he said and other Members had to say, we drafted a comprehensive resolution and left it to each Local Government to consider the main question in relation even to what was being done by other countries. That is the position.

**Mr. Lalchand Navalrai:** May I know, Sir, if the Honourable Member will be pleased to send this question and the supplementaries together with the answers to the Board?

**Sir Girja Shankar Bajpai:** Certainly, Sir; I will do that.

#### SALARIES, ETC., IN THE RESERVE BANK AND IMPERIAL BANK.

207. **\*Dr. Bhagavan Das:** Will Government please state:

- (a) the salaries drawn by all the higher officers of the Reserve Bank and the Imperial Banks of this country, who draw a thousand rupees or more per mensem, and also the total amount of all such salaries;
- (b) the average rate of dividend per annum given to the shareholders in the Imperial Banks, during the last ten years, and also the number of Government servants, if any, who are shareholders in them; and
- (c) the proportion of interest and principal lost by the Reserve Bank and Imperial Banks through litigation and non-recovery?

**The Honourable Sir James Grigg:** (a) The salaries of the first Governor and Deputy Governors of the Reserve Bank have been fixed by the Governor General in Council under section 15(2) of the Reserve Bank Act, and are :

	Rs.
Governor . . . . .	10,000 a month.
Deputy Governor . . . . .	5,500 a month.

The determination of all other salaries in the Reserve Bank and of salaries in the Imperial Bank is a matter for the Banks concerned. Perhaps, I might say that I understand there is a habit in the banking world of fixing salaries free of income-tax, but the salaries of the Governor and Deputy Governors are fully subject to income-tax and super-tax.

(b) The Honourable Member will find the answer to the first part of this question in the financial press.

As regards the second part of (b) and as regards (c), Government have no information.

**CONDITION OF INDIANS IN KENYA DUE TO THE SUBSTITUTION OF CASH-RENT FOR KIND-RENT.**

208. **\*Dr. Bhagavan Das:** Will Government please state whether they are aware that the indigenous population of Kenya where there is a considerable number of Indians, is being driven into wage-slavery because of the substitution of cash-rent for kindrent?

**Sir Girja Shankar Bajpai:** Government have no information, but have made enquiries, the results of which will be communicated to the House as soon as they are available.

**FORMS OF OATHS OF OFFICE.**

209. **\*Dr. Bhagavan Das:** (a) Will Government please lay on the table the forms of all the Oaths of office, from the King's Coronation Oath downwards, taken by the several classes of public servants, salaried or honorary, who are connected with the Government of India in any way, whether as head like the King, or as salaried super-ordinates and co-ordinates and subordinates, or as honorary and elected councillors, advisers, visitors, etc. ?

(b) Do Government propose to have printed copies of such oaths displayed in large type prominently and perpetually in all the offices where the public servants concerned do their work?

**The Honourable Sir Henry Craik:** I lay on the table the forms of oaths taken by high officials in India. The oath of allegiance and the oath of office are taken by:

- (1) Governor General.
- (2) Governors.
- (3) Chief Commissioners.



These oaths and the oath of secrecy are also taken by:

- (1) Members of the Governor General's Executive Council.
- (2) Members of Governors' Executive Councils, and
- (3) Ministers.

All these officers may make an affirmation if they have any objection to making an oath. Members of the Legislative Assembly and the Council of State are also required to make an oath or affirmation of allegiance to the Crown as laid down in paragraph 6 of the Manuals of Business and Procedure in the Legislative Assembly and the Council of State. The Government of India are not aware of the form of coronation oath taken by His Majesty.

(b) No.

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*Form of Oath of Allegiance.*

I, \_\_\_\_\_ do swear that I will be faithful and bear true allegiance to His Majesty, King Edward the Eighth, Emperor of India, His Heirs and Successors, according to Law.

So help me God.

*Form of Oath of Office.*

I, \_\_\_\_\_ do swear that I will well and truly serve our Sovereign, King Edward the Eighth, Emperor of India, in the Office of \_\_\_\_\_, and that I will do right to all manner of people after the Laws and usages of India, without fear or favour, affection or ill-will.

So help me God.

*Form of Oath of Secrecy for Members of Executive Councils and Ministers.*

I, \_\_\_\_\_ do swear that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration, or shall become known to me as a Member of the Executive Council Minister in \_\_\_\_\_ except as may be required for the due discharge of my duties as such Member Minister or as may be specially permitted by the Governor-General Governor

So help me God.

*Declaration made by a Chief Justice and a Judge of a High Court.*

I, A.B., appointed Chief Justice (or a Judge) of the High Court of Judicature at \_\_\_\_\_, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge and judgment.

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STATE MANAGEMENT OF RAILWAYS.

210. \***Dr. Bhagavan Das:** Will Government state if it is a fact that they have found that the State-management of Railways is less efficient and more expensive than management by private companies?

**The Honourable Sir Muhammad Zafrullah Khan:** It is difficult to generalise on such a wide question particularly for all time, but there are undoubtedly obstacles to strictly business management in a State concern which do not exist in the case of a purely private one.

**ABSENCE OF COVERED PLATFORMS ON THE BENARES CANTONMENT AND KASHI RAILWAY STATIONS.**

**211. \*Dr. Bhagavan Das:** Will Government please state why the Benares Cantonment and Kashi Railway Stations have been left without any covered platforms, all these decades, and that many smaller stations, nearby, like Moghal Sarai, Mirzapur, etc., have been provided with them? Are Government aware that Benares is perhaps the oldest living historical town on the surface of the earth, the most important and most crowded place of pilgrimage in the country, and is visited by princes, governors, governors-general, the king and the queen, and by tourists and orientalis from all the countries of the earth?

**The Honourable Sir Muhammad Zafrullah Khan:** At Benares Cantonment on the Up platform there are two verandahs each 450 feet long by 14 feet wide. On the Up platform there is a covered shed 98 feet long by 22 feet wide, and on the Down platform a shed 200 feet by 26 feet.

At Kashi the station verandah is 128 feet by 15 feet and there are two covered sheds fifty feet from the edge of the platform, one having an area of 8,140 square feet, and the other 5,450 square feet.

A greater number of passengers use Moghal Sarai than Benares Cantonment and Kashi.

Recently Rs. 11,000 was spent in providing a covered shed at Benares Cantonment. The question of rebuilding Kashi station is under consideration.

Government are aware that Benares is an important place of pilgrimage.

**Pandit Lakshmi Kanta Maitra:** Do Government propose to improve the platform at Benares Cantonment?

**The Honourable Sir Muhammad Zafrullah Khan:** I have no information on that. If the Honourable Member will approach the Agent or the Advisory Committee, he will get the information.

**Dr. Bhagavan Das:** Is there any chance of this reconstruction of the platforms at Benares Cantonment and Kashi stations taking place shortly?

**The Honourable Sir Muhammad Zafrullah Khan:** I cannot say.

**Dr. Bhagavan Das:** Is it not a fact that the passenger trains very often are nearly a thousand feet in length; and between the small covered verandahs and the trains there is a large open space, across which it is very inconvenient for passengers to pass in the rains and in the hot weather to get from the train into the covered verandah and *vice versa*?

**Mr. President** (The Honourable Sir Abdur Rahim): That is not a question.

**Dr. Bhagavan Das:** Therefore, I wish to know whether there is any chance of this reconstruction taking place shortly.

**The Honourable Sir Muhammad Zafrullah Khan:** The difficulty referred to by the Honourable Member is being experienced by passengers at a very large number of stations in this country.

**Dr. Bhagavan Das:** They are not so important as Kashi, are they?

**MAINTENANCE OF THE CRIMINAL INVESTIGATION DEPARTMENT.**

**212. \*Dr. Bhagavan Das:** Will Government please state:

- (a) what the total number, for the whole of India and Burma, of servants of all kinds employed in the Criminal Investigation Department in so far as the Government of India are concerned, was, at the end of the financial year 1934-35; and
- (b) what the total expense was on this Criminal Investigation Department, in that year?

**The Honourable Sir Henry Craik:** (a) and (b). I would refer the Honourable Member to the statement which was laid on the table of this House on the 2nd September, 1935, in reply to parts (a), (b) and (c) of question No. 1071 asked by Mr. T. S. Avinashilingam Chettiar on the 27th March, 1935, which contains the required information.

**GAZETTED MUSLIM HOLIDAYS OBSERVED IN THE GOVERNMENT OF INDIA OFFICES.**

**213. \*Seth Haji Abdoola Haroon:** (a) Will Government be pleased to lay on the table a list of Gazetted Muslim public holidays observed in the various Departments of the Government of India?

(b) Will Government be pleased to state whether that list is in force uniformly in all the provinces or some extra days are allowed in some provinces apart from those holidays notified for all India?

(c) Are Government aware that some important Islamic days are not included in the Gazetted list of public holidays in the centrally administered areas?

(d) Will Government be pleased to state whether they are prepared to add the following Islamic days to the present list of gazetted public holidays, so as to enable the Muslim staff to participate in the social and religious ceremonies:

- (i) *1st of Moharram.*—New Year (Muslim) day.
- (ii) *25th of Moharram.*—Akhri Chahar Shamba.
- (iii) *26th of Rajab.*—Shab-i-Mairaj.
- (iv) *27th of Farzan.*—Laila-tul-Qadar.
- (v) *Last Friday of Ramzan.*—Juma-tul-Wida.
- (vi) *2nd of Shawal.*—Day following Id-ul-Fitr.
- (vii) *9th Zilhajj.*—Hajj.
- (viii) *11th and 12th Zilhajj.*—2 days following Id-uz-Zuha.

(e) Are Government aware that Hindus, Parsees and Christians are granted gazetted holidays on their new year days, i.e., first day of the new year, while the Muslims have so far been deprived of it?

(f) Will Government be pleased to state whether they are aware that 27th day of Ramzan, *i.e.*, *Idaila-tul Qadar*, Last Friday of Ramzan, 9th Zilhajj and 11th and 12th Zilhajj, are the most important days in Islamic religion?

(g) If the answer to part (f) be in the affirmative, do Government propose to include these days in the list of gazetted public holidays?

**The Honourable Sir Henry Craik:** (a) In the Government of India Offices that move between Delhi and Simla three days, namely, Id-ul-Fitr, Id-ul-Zuha and Muharram, are observed as closed holidays, and, in addition, Muslim employees are allowed six holidays in a year which they can take on any other occasion. The Government of India Offices that remain in Delhi all the year round follow the local practice in regard to holidays. I may add that no holidays are gazetted by the Government of India.

(b) No. There is no uniformity in this respect. Local Governments declare their own holidays under section 25 of the Negotiable Instruments Act, 1881.

(c), (d), (f) and (g). I have already explained the question of holidays in the Government of India Offices in detail in reply to Sardar Sant Singh's question No. 611 on the 23rd September, 1935. Government are aware that many days considered important by various communities are not included in the list of holidays, but a member of any community has the option of taking a holiday on important days within the maximum of six communal holidays allowed per annum. Government are unable to increase the existing number of holidays as they consider it better to have a smaller number of real holidays than a large number of holidays which for a large portion of the staff would only be nominal as was the case before the adoption of the present system.

(e) So far as the Government of India are concerned only the 1st January is observed as a closed holiday. This can scarcely be regarded as a purely Christian occasion.

**EDITORIAL HEADED "NO DUMPING" IN THE *INSURANCE WORLD* OF CALCUTTA.**

214. **\*Mr. Akhil Chandra Datta:** Will Government be pleased to state:

(a) whether their attention has been drawn to the Editorial headed "No dumping" in the *Insurance World* of Calcutta in its issue of October 1935; and

(b) whether they are prepared to accept the statement contained therein as accurate, and if not, whether they propose to make an enquiry as to the accuracy of the statement on the lines suggested in the article?

**The Honourable Sir Nripendra Sircar:** Sir, with your permission, I propose to answer questions Nos. 214 and 215 together.

(a) Yes.

(b) I am not sure to which of the several statements made in the article the Honourable Member is referring. The main argument of the article is that if foreign offices were required to make separate valuations of their Indian business the figures would show that they were dumping their business in India. The existing insurance law in British India does:

not require the production of such statistics which are consequently not available, and I am, therefore, unable to say what inference should be drawn from them.

Government do not propose to take steps immediately as the report of the Special Officer appointed to examine the question of revision of insurance law in India has been recently received and is under consideration.

The answer to part (a) of question No. 215 is in the negative.

**Mr. S. Satyamurti:** May I know, with regard to the answer about foreign insurance companies being compelled to give statistics of their Indian business, whether the report which the Government have received suggests an amendment of the law of insurance, at the proper time, so as to cast an obligation on companies to give that information, or, independently of that report, will Government be good enough to consider proposals to amend the law in that direction?

**The Honourable Sir Nripendra Sircar:** The report is confidential, and I cannot refer to it now, but I can assure my Honourable friend that this particular matter has been considered in the report and will be considered by the Government of India in connection with the draft for amending the insurance law.

#### GROWTH AND DEVELOPMENT OF INDIGENOUS INSURANCE BUSINESS.

†215. **\*Mr. Akhil Chandra Datta:** (a) With reference to my starred question No. 465 answered on the 18th September, 1935, regarding the growth and development of Indigenous Insurance Business, will Government be pleased to state whether they have revised their opinion or reviewed the situation since then?

(b) Do Government propose to take such steps immediately as will ensure protection of the Indigenous Insurance against competition by foreign companies?

#### CONSTRUCTION OF THE MEGHNA BRIDGE ON THE ASSAM BENGAL RAILWAY.

216. **\*Mr. Akhil Chandra Datta:** (a) Will Government be pleased to state if the construction of the Meghna Bridge on the Assam Bengal Railway has been taken in hand? If so, has the attention of Government been drawn to the frequent occurrence of floods in the areas near about the site of the proposed bridge which cause great distress to the cultivators year after year?

(b) Are Government aware that there is a misapprehension in the public mind that the condition will be worsened by the construction of the bridge?

(c) Are Government prepared to consider the desirability of making a necessary survey of the drainage conditions of the locality to ensure proper drainage before proceeding with the construction of the bridge?

**The Honourable Sir Muhammad Zafrullah Khan:** (a) Funds have been allotted for starting work this year. Preliminary measures are in hand. The question of floods has already been carefully considered by the Government of Bengal who have accepted the scheme.

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†For answer to this question, see answer to question No. 214.

- (b) Government have no information.
- (c) Government do not consider further surveys necessary.

**RECRUITMENT OF MUSLIM OFFICERS ON THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.**

217. **\*Mr. H. A. Sathar H. Essak Sait:** (a) Will Government be pleased to state the number of Muslims in the officer's rank in the Madras and Southern Mahratta Railway as against members of the other communities?

(b) Are Government prepared to issue instructions to the Railway administration to recruit Muslims in large numbers at least for some time to come until they get a reasonable proportion in those ranks?

**The Honourable Sir Muhammad Zafrullah Khan:** (a) The available information is contained in Appendix F to the Report by the Railway Board on Indian Railways for 1934-35, a copy of which is in the Library of the House.

(b) Government have fixed 25 per cent. for Muslims in direct recruitment to superior railway services on the Madras and Southern Mahratta Railway which the Board of Directors of that Railway have accepted. Government regret they are not prepared to go further than this. In this connection, I would refer the Honourable Member to paragraph 5 of the Memorandum of Supplementary Instructions connected with the orders contained in the Government of India, Home Department, Resolution No. F.-14/17-B/33-Ests, dated the 4th July, 1934, forwarded to Railways with Railway Board's letter No. E.-35-C. M.-120, dated the 9th August, 1935, a copy of which is already in the Library of the House.

**RECRUITMENT OF MOPLAHS AS CLERKS AND STATION MASTERS ON THE RAILWAYS IN THE MADRAS PRESIDENCY.**

218. **\*Mr. H. A. Sathar H. Essak Sait:** (a) Are Government aware that Moplahs who form one-third of the Muslim population of the Madras Presidency are completely absent from the ranks of the clerks and Station Masters in the Railway systems working in that Presidency?

(b) Are Government prepared to issue instruction to the Railway administration to employ the Moplahs in large numbers until they get a reasonable proportion in those ranks?

**The Honourable Sir Muhammad Zafrullah Khan:** (a) and (b). Government have no information. As it has not been considered necessary or desirable to fix definite percentages of appointments by Provinces or particular districts of a Province on State-managed Railways they do not consider it necessary to advise Company-managed Railways to do so.

**RECRUITMENT OF MOPLAHS UNDER THE POSTAL DEPARTMENT IN THE MADRAS PRESIDENCY.**

219. **\*Mr. H. A. Sathar H. Essak Sait:** (a) Will Government be pleased to state the number of gazetted Muslim officers under the postal department in the Madras Presidency as against members of other communities giving the number of Moplahs separately?

(b) Are Government prepared to resort to direct recruitment of Moplahs to these posts until a few of them are employed?

(c) Are Government prepared to issue instructions for their employment in large numbers regardless of their position on the waiting lists?

**The Honourable Sir Frank Noyce:** (a) The total number of gazetted officers under the Postal Department is 30 of whom three are Muslims. None of the latter belong to the Moplah community.

(b) The rules regarding recruitment on a communal basis to posts to which direct recruitment is made have been laid down by Government in the Home Department Resolution, Establishments, dated the 4th July, 1934, a copy of which is in the Library of the House. Moplahs belong to the Muslim community, and, as such, they are eligible for recruitment in the posts reserved for the Muslim community.

(c) The Honourable Member appears to be under a misapprehension. Whatever be the position of candidates on the waiting list, recruitment of Muslims, including Moplahs, will be made strictly in accordance with Government's orders regarding the representation of minority communities in the services.

#### SPECIAL TICKET EXAMINERS ON THE NORTH WESTERN RAILWAY.

220. \***Mr. Lalchand Navalrai:** (a) With reference to the reply to my starred question No. 306, asked on the 18th February, 1935, will Government be pleased to state the action taken by the Agent, North Western Railway, Lahore, to whom a copy of the said question was sent?

(b) Will Government state whether it is a fact that the Railway Board had confirmed the present ticket-check policy on the North Western Railway of employing Special Ticket Examiners to run in groups of two or more in place of one Travelling Ticket Examiner in each train? If so, why is the staff still temporary and why cannot the Government direct the confirmation of the staff after usual probationary period?

(c) Are Government aware that Special Ticket Examiners recruited on the North Western Railway in the years 1926 and 1927, are still temporary? If Government have no information, do they propose to inquire into the matter? How long is it proposed to keep a large number of Special Ticket Examiners temporary?

(d) Will Government state what is the maximum duration for which an employee working against a permanent post should remain as temporary? If no such duration is fixed, are Government prepared with reference to Fundamental Rule 13, to fix a period of three years for confirmation of staff acting against permanent posts? If not, why not?

(e) Do Government propose to exercise their power of superintendence, and direct the North Western Railway Agency, to confirm the Special Ticket Examiners in their present appointments? If not, why not?

**The Honourable Sir Muhammad Zafrullah Khan:** (a) Government are informed that the question of confirmation of Special Ticket Examiners in the grades held by them in an officiating capacity was, at the time when a copy of the question referred to and the reply given thereto was forwarded to the North Western Railway, already under consideration by that Railway and did not call for any further specific action.

(b) The arrangement for the checking of tickets on the North Western Railway is a matter for that Administration to deal with and the Railway Board's approval or confirmation of such arrangements as may be made was, therefore, neither asked for nor given. I would, however, add, that the staff working as Special Ticket Examiners in an officiating capacity hold a lien on their substantive posts and the reason why they have not yet been confirmed is due to the delay on the part of the old Travelling Ticket Examiners in exercising the option given to them to elect either the old scales of pay or those of the Special Ticket Examiners throughout. Several Special Ticket Examiners in submitting their option at a date prior to the 31st October, 1935, did so in an ambiguous manner which necessitated further references and caused delay.

(c) Special Ticket Examiners recruited prior to 1931 were drawn from the staff already in service and the reason for the delay in their confirmation as Special Ticket Examiners is given in the reply to part (b) above. The question of confirmation is now in hand and orders will be issued by the North Western Railway shortly.

(d) Government are informed that on the North Western Railway employees are generally appointed against permanent posts on twelve months' probation, their confirmation being considered after the expiry of this period if their working, etc., is satisfactory.

(e) In view of the reply to parts (b) and (c) of this question Government do not consider it necessary to intervene.

**Mr. Lalchand Navalrai:** I understand that the Special Ticket Examiners have memorialised the Government of India on the allowances which they used to get before and which were reduced. May I know whether the Honourable Member has considered that question?

**The Honourable Sir Muhammad Zafrullah Khan:** Yes. Government have considered those memorials.

**Mr. Lalchand Navalrai:** May I know what is the result?

**The Honourable Sir Muhammad Zafrullah Khan:** The result has been communicated to the memorialists.

**Mr. Lalchand Navalrai:** May I know what is the reply given to the memorialists? I am asking for the information of the House.

**The Honourable Sir Muhammad Zafrullah Khan:** That the Government are unable to accede to their request.

#### PROMOTION OF GUARDS ON THE NORTH WESTERN RAILWAY.

221. **\*Mr. Lalchand Navalrai:** (a) With reference to the reply to my starred question No. 303 asked on the 18th February, will Government be pleased to state whether it is a fact that the annual gross earnings of the North Western Railway have stood in the neighbourhood of Rs. 18 crores, since 1925-26 up to date? If the answer be in the negative will Government be pleased to lay on the table a statement showing figures of annual gross earnings of the North Western Railway from 1925-26 up to date?



(b) With reference to the reply to parts (b) and (c) of my starred question No. 303 asked on the 7th February 1935, will Government be pleased to state how do they justify the reduction of about 30 per cent. in the sanction of appointments of grade III and IV guards on the North Western Railway?

(c) Do Government accept the principle that the reduction in the higher grade appointments should be commensurate with the percentage of decrease in the gross earnings of a Railway? If not, why not?

(d) Will Government be pleased to state if there has been decrease in the passenger earnings or goods earnings? If the decrease is largely in the Goods Traffic, why the sanctions of guards grade III and IV has been affected?

(e) Is it a fact that the present policy of the North Western Railway Administration is to abolish every grade III and IV post which falls vacant in the near future? If so, will Government be pleased to state the minimum strength of grade III and IV guards that is desired to be achieved and the basis on which that minimum has been fixed?

(f) Is it a fact that Christians, Anglo-Indians and Europeans do not find chance for direct recruitment in grade III and IV?

(g) Is it a fact that the emoluments of employees on the North Western Railway are fixed according to the responsibilities attached to the post held by an employee? If so, how do Government justify saddling grade II guards with extra responsibility without any extra remuneration?

(h) Will Government be pleased to say when the promotions of grades II and III guards to grades III and IV respectively were last made on the North Western Railway, and when such promotions are likely to be made in the near future?

(i) Has the attention of Government been drawn to a letter No. 188, dated 2nd July 1935, from the General Secretary, North Western Railway Union addressed to the Agent, North Western Railway and published in the *Railway Herald* on the subject of policy of abolition of grade III and IV guards' posts on the North Western Railway? What steps do Government propose to take on that representation?

(j) Is it a fact that the promotions to guards' grades II, III and IV are made through the Selection Boards in the Headquarters Office of the North Western Railway, while promotions to Station Masters' grades II, III and other higher grades are made in accordance with the seniority of staff in the lower grades? If so, why are guards being treated differently?

**The Honourable Sir Muhammad Zafrullah Khan:** (a) I place a statement on the table showing earnings from passengers carried, goods earnings and gross earnings of the North Western Railway for the years from 1925-26 to 1934-35. It will be seen from the statement that the earnings have fluctuated considerably.

(b), (c) and (e) to (j). These are matters of detailed administration in which full powers have been delegated to the Agent, North Western Railway, who is competent to deal with them. I have, however, sent him a copy of this question for such action as he may consider necessary.

(d) As regards the first part, I would refer the Honourable Member to the reply which I have just given to part (a) of this question. As regards the second part this is a matter of detailed administration which must be left to the Agent, North Western Railway

*Statement showing earnings from passengers carried, goods earnings and gross earnings on North Western Railway from 1925-26 to 1934-35.*

(Figures in thousands of rupees)

Year.	Earnings from passengers carried.	Goods earnings.	Gross earnings.
1925-26	6,90,59	9,71,51	17,93,83
1926-27	6,58,87	9,88,57	17,94,63
1927-28	6,58,42	10,56,26	18,72,32
1928-29	6,34,66	10,38,40	18,27,52
1929-30	6,01,56	10,31,78	17,77,88
1930-31	5,54,58	10,07,19	16,97,88
1931-32	4,89,17	9,01,69	15,17,93
1932-33	4,85,86	8,42,78	14,68,39
1933-34	4,74,42	9,14,99	15,26,34
1934-35	4,71,36	9,77,10	15,83,84

**Mr. Lalchand Navalrai:** In view of the importance of this question affecting the guards, may I request the Honourable Member to get a reply from the Agent at an early date and place it before the House?

**The Honourable Sir Muhammad Zafrullah Khan:** The question affecting guards is no more important than the question affecting Special Ticket Examiners.

**Mr. Lalchand Navalrai:** The point is that guards, grades III and IV, are more or less being abolished, and, therefore, it is very important. When this question has been admitted, the House ought to know what is the reply of the Agent. Will the Honourable Member kindly get it and place it before the House?

**The Honourable Sir Muhammad Zafrullah Khan:** My submission is that the Agent has full power delegated to him in regard to this matter, and he is under no necessity to obtain Government's approval in regard to any action that he takes thereunder, and, therefore, I am unable to furnish the information.

**Mr. Lalchand Navalrai:** Is the Honourable Member aware of a ruling by the President that, when questions have been admitted by the Chair, replies should be got from the Agents and placed before the House?

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

**Mr. Lalchand Navalrai:** May I know from the Chair this? When we put questions, we do not get replies from the Agents direct, and we do not get them through the House either, and what is the use of putting questions then?

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member is giving reasons. He is not putting a question.

**Mr. Lalchand Navalrai:** The Honourable Member says he has sent it to the Agent, and we do not know what the Agent has done. I would request the Chair to help us, so that we can inform our constituencies what has been done.

**The Honourable Sir Muhammad Zafrullah Khan:** If, in due course the Honourable Member will put down a question, with reference to the reply that I have given, whether any action has or has not been taken by the Agent, I may be able to give him an answer.

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

#### SENIORITY LIST OF CERTAIN CLERKS ON THE NORTH WESTERN RAILWAY.

222. **\*Mr. Lalchand Navalrai:** (a) With reference to the reply to my starred question No. 309 asked on the 16th February, 1935, will Government please state at what decision the Agent, North Western Railway has arrived, as a result of his examination of the proposal to combine the seniority list of clerical staff in grade IV and above employed in Divisional and Headquarters Offices?

(b) If the decision is unfavourable to the combination of seniority list, will Government be pleased to state the reasons for such a course?

**The Honourable Sir Muhammad Zafrullah Khan:** (a) and (b). Government are informed that the proposal was re-examined and after careful consideration of the various factors bearing on this question, it was decided that a combined seniority list for the clerical staff of the Headquarters, Divisional and Extra-Divisional Offices would not be desirable in the interests of the Administration.

#### SURPLUS OFFICE SUPERINTENDENTS ON THE NORTH WESTERN RAILWAY.

223. **\*Mr. Lalchand Navalrai:** (a) With reference to the reply to parts (a) and (b) of my starred question No. 991 asked on the 25th March, 1935, regarding surplus office Superintendents on the North Western Railway, will Government be pleased to state the action taken by the Agent, North Western Railway, Lahore, to whom a copy of the question was sent?

(b) Is it a fact that when members of the Christian, Anglo-Indian and European communities are officiating in higher appointments, these posts though surplus are retained, as was the case alleged in parts (a) and (b) of my starred question referred to in part (a) above? If so, what are the reasons for this discrimination? If the answer be in the negative, how do Government justify the allegations made in that question?

(c) Is it a fact that during the last few years the policy on the Indian Railways has been to abolish redundant posts and to revert temporary staff? Did this policy affect only Indians or other communities as well? If not, why not?

**The Honourable Sir Muhammad Zafrullah Khan:** (a) Government have no information. As already stated in reply to parts (a) and (b) of question No. 991 referred to, the Government are not prepared to interfere in the matter.

(b) Government have no reason to believe that such is the case. The latter parts of the question do not arise.

(c) Yes, it has been the policy to abolish redundant posts and to deal with the incumbents of such posts, whether permanent or temporary, on their merits. This policy applies to all communities alike.

**POWER OF PLACING ON LEAVE AN EMPLOYEE NOT SUFFICIENTLY CONVERSANT WITH THE RULES ON THE NORTH WESTERN RAILWAY.**

224. \***Mr. Lalchand Navalrai:** (a) Will Government be pleased to state whether it is a fact that the Assistant Transportation Officers on the Karachi Division of the North Western Railway, exercise the powers of declaring an employee as insufficiently conversant with railway rules and place him on leave with or without allowances, till he passes such a test?

\* (b) If the answer to part (a) be in the affirmative, will Government be pleased to refer to part (d) of the answer laid on the table of the House on the 21st January 1935 in reply to my question No. 630 asked on 15th August 1934, and para. 3 of the Agent, North Western Railway, Lahore, letter No. 293-E/34, dated 25th August, 1934, to the General Secretary, North Western Railway Union wherein it has been definitely stated that only a Divisional Transportation Officer, if personally satisfied that a particular employee is not sufficiently conversant with the rules, can place him on leave with or without allowances? Why was this infringement of the rules made?

(c) Are Government aware that the Karachi Branch of the North Western Railway Union did point out to the Divisional Superintendent, North Western Railway, Karachi, and the Agent, North Western Railway, Lahore, the infringement of the orders in a representation in June last but no action has so far been taken? If so, why?

**The Honourable Sir Muhammad Zafrullah Khan:** Government understand that the position is as follows:

(a) On the Karachi Division guards are tested triennially in train working and if they fail to pass the test they are not put back to duty until they qualify. Such tests are conducted by the A. T. O.'s but if the guards are finally considered unfit by the A. T. O.'s. they are put before the Divisional Transportation Officer to be tested.

(b) Prior to the issue of letter No. 293-E./34, dated the 25th August, 1934, to the General Secretary, North Western Railway Union, the instructions issued by the Agent, North Western Railway, on the subject of tests of station staff and guards required that such tests should be carried out by 'responsible officers'. In describing the practice to the Union it was not the intention to insist on each test of a guard in train working being carried out by an officer of Divisional rank but it was the intention that all failure should be brought

to the Divisional Officers' notice before putting the individual on leave with or without allowances until such time as he was able to pass. Through an oversight, however, instructions to this effect were not issued and this is being done now.

- (c) A letter from the Karachi Branch of the Union was received by the Divisional Superintendent, Karachi, who, however, explains that as a copy of the Agent's letter to the General Secretary, North Western Railway Union, quoted above had not been supplied to him and no infringement of the rules was taking place no further action was taken by him. Government understand that no letter from the Karachi Branch of the Union in this connection was received by the Agent's Office.

**ASSISTANCE FROM THE RAILWAY FUNDS TO EMPLOYEES OF STATE RAILWAYS TOWARDS THE EDUCATION OF THEIR CHILDREN.**

225. \*Mr. Lalchand Navalrai: (a) Will Government be pleased to refer to para. (3) of the rules governing the grant of assistance from the Railway funds to employees of State-managed Railways, towards the education of their children, issued under the Railway Board letter No. 4233, dated the 22nd September, 1930, and state if this allowance is permissible to an employee stationed at a place from where the school of the requisite standard is situated at a distance of one, two or three miles?

(b) Is it a fact that the Karachi Branch of the North Western Railway Union had made a representation to the Divisional Accounts Officer, North Western Railway, Karachi, that the words used in the rules were 'at the station' and Schools of requisite standard at distances of one or two miles could not be considered schools at the station where an employee is posted and therefore assistance was due in such cases?

(c) Is it a fact that since June 1934, the Union is given the stereotyped reply that the matter is under consideration of the Agent? If so, do Government propose to expedite decision on the subject?

**The Honourable Sir Muhammad Zafrullah Khan:** (a) No. In this connection, I would refer the Honourable Member to the reply given to starred question No. 6 asked by Mr. M. Maswood Ahmad in this House on the 24th January, 1934. The matter is, however, under consideration in connection with the general policy for assistance from railway funds to railway employees for education of their children.

(b) and (c). Government have no information. I have, however, forwarded a copy of this question to the Agent, North Western Railway, for information and such action as he may consider necessary.

**Mr. Lalchand Navalrai:** I want a specific answer to the last part of (a). Will Government state if this allowance is permissible to an employee stationed at a place from where the school of the requisite standard is situated at a distance of one, two or three miles?

**The Honourable Sir Muhammad Zafrullah Khan:** I have already given an answer that the matter is under consideration in connection with the general policy of giving assistance from railway funds to railway employees for the education of their children. This matter will be considered along with the rest.

**PROVISION FOR ACCUMULATION OF LEAVE BY INFERIOR AND DAILY-RATED STAFF ON THE NORTH WESTERN RAILWAY.**

226. **\*Mr. Lalchand Navalrai:** (a) Will Government be pleased to refer to paragraph 83, sub-paragraph (ii) of the Railway Board's Report for the year 1932-33 Volume I and state what action the North Western Railway Administration have taken to review from time to time the provisions of the Revised State Railways Leave Rules? If not, why not?

(b) Are Government aware that the revised State Railways leave rules do not provide for accumulation of leave by inferior and daily rated staff? If so, do Government propose to amend the rules to provide for accumulation of leave by these classes of staff?

(c) Are Government aware that the labour on the North Western Railway is generally imported from long distances and employees proceed to their homes after three or four years and without the provision of accumulation of leave, they are unable to take advantage of the amount of leave admissible in a calendar year?

(d) What were the reasons for treating the inferior and daily-rated staff so fundamentally different than the subordinate staff in the matter of leave admissible under the Revised State Railways Leave Rules?

(e) Will Government be pleased to state the names of the departments under the control of the Government of India where the facility for accumulation of leave is denied to staff? If no such precedent exists what are the reasons for this different treatment to the railway employees, and whether Government propose to amend these rules?

**The Honourable Sir Muhammad Zafrullah Khan:** (a) The working of the new State Railway Leave Rules has been reviewed by the North Western Railway.

(b) The reply to the first part of the question is in the affirmative, while the reply to the second part is in the negative.

(c) Government have no reason to believe that the majority of the labour staff on the North Western Railway are imported from long distances nor that the staff concerned are unable to take advantage of the amount of leave admissible to them under the leave rules.

(d) Government consider that a reasonable annual holiday is sufficient for persons employed on manual labour, or in inferior service and for daily rated employees who are generally of similar classes.

(e) Government are aware of the divergence of practice in respect of inferior staff between the New State Railway Leave Rules and the new leave rules issued by the Finance Department but they do not propose to amend these rules for the reasons given in reply to part (d) of this question.

**SICK LEAVE TO THE INFERIOR AND DAILY-RATED STAFF ON THE NORTH WESTERN RAILWAY.**

227. \***Mr. Lalchand Navalrai:** (a) Will Government be pleased to state whether it is a fact that under the revised State Railways Leave Rules of 1931, employees in the inferior and daily-rated categories on the North Western Railway are not entitled to any sick leave if they happen to have less than ten years service to their credit? If so, why has no provision been made for sick leave in their case?

(b) Do Government propose to amend the rules so as to allow sick leave to employees having less than ten years service? If not, why not?

**The Honourable Sir Muhammad Zafrullah Khan:** (a) The reply to the first part of the question is in the affirmative. I would, however, add that the rules referred to are applicable also to inferior and daily rated staff on all the other State-managed Railways and to similar staff on such Company-managed Railways as have adopted these rules. As regards the latter part, Government consider that a reasonable annual holiday is sufficient for persons employed on manual labour and to inferior servants and daily rated employees.

(b) Government do not propose to amend these rules in view of the considerable additional expenditure which would be involved.

**EMPLOYEES DISCHARGED FROM SERVICE ON THE NORTH WESTERN RAILWAY.**

228. \***Mr. Lalchand Navalrai:** (a) With reference to the reply to parts (b), (c) and (d) of my starred question No. 310 asked on the 18th February 1935, are Government aware that the information asked for is readily available with the North Western Railway *vide* half-yearly statement prepared on the form given in Annexure (b) to the Agent's circular No. 1-A, of 1930, regarding the discharge and dismissal rules of the State-Railways non-gazetted Government servants? Are Government now prepared to give the required information?

(b) Will Government be pleased to state whether an employee, who is likely to be discharged, or whose offence is grave enough to lead to the consideration of the question of his discharge from service, is apprised of this fact by asking him to show cause why he should not be discharged in the charge sheet to make him realize the gravity of the situation? If not, are Government prepared to issue necessary instructions for doing so? If not, why not?

(c) Is it a fact that the Railway Board had under consideration the question as to whether an employee who is discharged from service should be informed of the reasons which led to his discharge so that he could send an intelligent appeal? If so, what decision was taken in the matter?

**The Honourable Sir Muhammad Zafrullah Khan:** (a) I place a statement on the table giving information readily available for the period from 23rd June, 1930 to 30th June, 1935. Information for the half year ending 31st December, 1935, is not readily available.

(b) Government are informed that necessary orders are already in existence on the North Western Railway in respect of staff with more than seven years' service who may be discharged from service and orders in respect of staff with less than seven years service are being issued.

(c) Under the "Rules regulating discipline and rights of appeal of non-gazetted Railway Servants", a copy of which is in the Library of the House, a railway servant charged with an offence, the maximum penalty for which is removal from service, is given an opportunity to submit his explanation and is allowed reasonable facilities for the preparation of his defence before the penalty is actually imposed. In the circumstances Government do not consider it necessary that the reasons for discharge should be stated in the letter communicating the orders of discharge to the employee concerned. Government reserve the right to remove from service, a railway servant under the terms of his agreement.

*Statement showing the Number of men discharged ; the number of such discharged employees who appealed, and the number of appeals accepted, during the period 23rd June 1930 to 30th June 1935 on the North Western Railway.*

Divisions.	Number of men discharged.	Number of such discharged men who appealed.	Number of appeals accepted.
Delhi . . . . .	503	123	17 + 4 under disposal.
Ferozepur . . . . .	20	13	1
Karachi . . . . .	192	59	6 + 1 under disposal.
Lahore . . . . .	411	75	12
Multan . . . . .	150	28	1
Quetta (up to 31st December 1934 only) . . . . .	26	11	2
Rawalpindi . . . . .	337	58	6
Workshops . . . . .	148	64	2
Total . . . . .	1,787	431	47 + 5 under disposal.

**Mr. Lalchand Navalrai:** Will the Honourable Member let me know how the person who is going to be dismissed is going to satisfy the authorities if he is not informed of the charge against him?

**The Honourable Sir Muhammad Zafrullah Khan:** I have already said that the railway servant is given an opportunity to submit his explanation and is allowed reasonable facilities for the preparation of his defence before the penalty is actually imposed. My reply was that, in the letter communicating to him that he is being discharged, it is not necessary to repeat what he is being discharged for, inasmuch as he already knows it.

**Lieut.-Colonel Sir Henry Gidney:** Will the Honourable Member inform the House why a difference is made in the treatment of persons with seven years' service and persons with ten years' service.

**The Honourable Sir Muhammad Zafrullah Khan:** I have not stated that a difference is made between ten years' and seven years' service.

**Lieut.-Colonel Sir Henry Gidney:** Am I right in assuming that a railway servant with seven years' service is treated differently in the matter of discharge?



**The Honourable Sir Muhammad Zafrullah Khan:** The question is too vague. If the Honourable Member will put down a question, I will give him an answer.

**Lieut.-Colonel Sir Henry Gidney:** Where is the vagueness of this question. There is a difference of three years.

**The Honourable Sir Muhammad Zafrullah Khan:** If the Honourable Member will put down a question, I will give him an answer.

#### LIMITATION OF POWER OF DISCHARGE BY A SENIOR RAILWAY OFFICER.

229. **\*Mr. Lalchand Navalrai:** (a) With reference to replies given to starred questions Nos. 555 and 558 asked by Bhai Parma Nand on the 26th February 1935, will Government be pleased to refer to the concluding portion of paragraph 3 of the Service agreement executed by the employees on the North Western Railway, which lays down that an appointing authority only has the power to suspend, dismiss or otherwise punish an employee, and state why, in practice, a Senior Scale Officer discharges an employee irrespective of the scale of his pay?

(b) Do Government propose to amend rules so as to limit the power of discharge by a Senior Scale Officer, of employees whose posts are controlled by the Divisional Superintendent? If not, why not?

**The Honourable Sir Muhammad Zafrullah Khan:** I have called for certain information and will lay a reply on the table of the House, in due course.

#### RACIAL DISCRIMINATION IN THE MATTER OF SUPPLY OF BOX PORTERS TO FIREMEN ON THE NORTH WESTERN RAILWAY.

230. **\*Mr. Lalchand Navalrai:** (a) Is it a fact that only European, Anglo-Indian and Christian Firemen of grade III are given the services of Box Porters on the North Western Railway? If so, why is this service denied to Indian Firemen?

(b) Will Government be pleased to refer to paragraph 84 of the Railway Board's report for the year 1932-33, on the 'elimination of racial discrimination' wherein it has been claimed that the racial discrimination has been practically removed in all directions from the State-managed Railways, and state how do they justify the racial discrimination prevailing on the North Western Railway in the matter of supply of Box Porters?

**The Honourable Sir Muhammad Zafrullah Khan:** (a) Government are informed that Box Porters are not provided at every station (e.g., when running rooms are close to sheds); but where Box Porters are provided their services are available to all Firemen, Grade III, irrespective of community.

(b) Does not arise.

#### UNIONS OF RAILWAY EMPLOYEES.

231. **\*Mr. Lalchand Navalrai:** Will Government be pleased to state:

- (a) the number of Railway Employees Unions in India and their names;
- (b) which of these Railway Unions are recognized by their respective Administrations, and why the rest are not recognized;

- (c) which Railways have two recognized Unions on their Railway for the same categories of staff; and  
 (d) what is the policy in regard to recognition of more than one Union of Employees on one Railway?

**The Honourable Sir Muhammad Zafrullah Khan:** (a), (b) and (d). From the information readily available, I lay on the table a statement giving the necessary particulars of Railway Unions understood to be in existence at present on the principal railways in India. Government are not aware of the reasons for the non-recognition of the un-recognised unions. I would, however, refer the Honourable Member to the information laid on the table of the House on the 21st January, 1935, in reply to starred question, No. 480, asked by Lieut.-Colonel Sir Henry Gidney, in the Legislative Assembly, on the 14th March, 1934, from which it will be observed that the recognition of particular unions is a matter for the Agents of railways though the Railway Board will consider an appeal if submitted by a labour union in the event of the Agent of a State-managed Railway refusing to grant recognition.

(c) Government have no information beyond what is given in the statement, which I have just laid on the table [in reply to parts (a), (b) and (d) of this question].

*Statement giving particulars of Railway Unions understood to be in existence at present on the principal Railways in India. (Based on information received during May and June 1935).*

Railways.	Name of Unions.	Whether recognised or not.
Assam Bengal . . .	A. B. Railway Indian Employee's Association.	Not recognised.
Bombay, Baroda and Central India.	B., B. & C. I. Railway Employee's Union, Parel Bombay.	Recognition withdrawn in December 1934.
	B., B. & C. I. Railway Employee's Association, Ahmedabad.	Recognised.
Bengal and North Western.	B. & N. W. Railwaymen's Association.	Recognised.
Burma . . . . .	Burma Railway Employees' Union	Not recognised.
	National Union of Railwaymen of India and Burma.	Not recognised.
East Indian . . . . .	East Indian Railwaymen's Union, Lucknow.	Recognised.
	Railway Staff Union, Moradabad	Not recognised.
	E. I. Railway Union, Khagaul . . . . .	Not recognised.
	E. I. Railway Workers' Union, Lilloah . . . . .	Not recognised.
	E. I. Railway Employees' Association . . . . .	Not recognised.
	National Union of Railwaymen of India and Burma . . . . .	Recognised.
	All-India and Burma Covenanted non-gazetted Railway Services Association . . . . .	Recognised.
	Railway Press Workers' Union . . . . .	Not recognised.
	Anglo-Indian and Domiciled European Association, Calcutta . . . . .	Not recognised.
	Muslim Employees' Association, E. I. Railway, Calcutta . . . . .	Not recognised.
Muslim Unemployed Union, Delhi.	Not recognised.	

Railways.	Name of Unions.	Whether recognised or not.
Great Indian Peninsula	All-India and Burma Covenanted Non-gazetted Railway Services Association . . . . .	Recognised.
	National Union of Railwaymen of India and Burma . . . . .	Recognised.
	G. I. P. Railway Workers' Union, Bombay . . . . .	Not recognised.
	G. I. P. Railway Administrative Executive offices Staff Union, Bombay . . . . .	Recognised.
	G.I.P. Railway Muslim Employees' Association . . . . .	Not recognised.
	All-India Muslim Railway Employees' Association . . . . .	Not recognised.
	The New G. I. P. Railway Staff Union, Bombay . . . . .	Recognised.
	G. I. P. Railway Labour Union . . . . .	Not recognised.
	M. & S. M. Railway Employees' Union . . . . .	Not recognised.
	Madras and Southern Mahratta Railway.	N. W. Railway Union . . . . .
N. W. Railway Accounts Union . . . . .		Recognised (by the C. A. O., N. W. Railway.)
North Western Railway	Association of Accountants . . . . .	Ditto.
	S. I. Railway Workers' Union . . . . .	Not recognised.
South Indian Railway . Rohilkund and Kumaon Bengal Nagpur . . . . .	R. & K. Railway Union . . . . .	Not recognised.
	B. N. Railway Indian Labour Union . . . . .	Recognised.
	B. N. Railway Employees' Union . . . . .	Recognised.
Eastern Bengal . . . . .	B. N. Railway Workers' Welfare Association . . . . .	Recognised.
	E. B. Railway Indian Employees' Association . . . . .	Recognised.
	Kanchrapara Railway Workmen's Union . . . . .	Recognised.
	National Union of Railwaymen of India and Burma . . . . .	Recognised.
	All-India and Burma Covenanted Non-gazetted Railway Services Association . . . . .	Recognised.

**GRANT OF FREE PASSES AND SPECIAL LEAVE TO RAILWAY UNION REPRESENTATIVES.**

232. \*Mr. Lalchand Navalrai: (a) Will Government be pleased to refer to the report of the Royal Commission on Labour, and their recommendation regarding free passes and special leave to Railway Union representatives, and state what action has been taken by them to carry out this recommendation? If no action has been taken, do they propose to take the necessary action?

(b) Is it a fact that the representatives of Staff Councils are given free passes and special leave? If so, why are the Unions not given the same facilities?

(c) Are Government prepared to give them equal facilities?

**The Honourable Sir Muhammad Zafrullah Khan:** (a) The Honourable Member is, presumably, referring to item 146 of the recommendations of the Royal Commission on Labour appearing on page 167 of their Report. If so, the matter is still under consideration.

(b) and (c). I would refer the Honourable Member to the reply given to starred question No. 1397, asked by Mr. Amar Nath Dutt, on the 2nd April, 1929.

**FIXATION OF THE SCALE OF PAY OF EMPLOYEES ON THE NORTH WESTERN RAILWAY.**

**233. \*Mr. Lalchand Navalrai:** (a) Will Government be pleased to state the principles on which the scales of pay of the employees on the North Western Railway are fixed? Whether those scales of pay are fixed on the length of service or the responsibilities attached to the post held by an employee or on some other consideration?

(b) What are the factors by which responsibilities attaching to a post on the North Western Railway are determined? Do Government consider the handling of cash and preparation of accounts duties of responsible nature?

(c) Is it a fact that a Booking Clerk on the North Western Railway besides issuing tickets and keeping stock of tickets worth lakhs of rupees has to receive and keep accounts of the cash collected by various branches namely, Goods, Parcel, Luggage, Ticket Collectors, Special Ticket Examiners and Telegraph Signallers, Spencer's Refreshment Rooms, also of earnings by sale of coal scrap wood, electric and rental charges or any other source of income to Railway and to cash cheques issued by the Railway Administration or the North Western Railway employees Co-operative Credit Society? If so, how do Government justify keeping the scales of pay of the Booking Clerks similar to those of the clerical staff in other branches of service, with no such responsibilities?

(d) Are Government prepared to give them the same scales of pay as are prevailing in other Government or semi-Government departments, for persons engaged in cash collections and keeping accounts? If there is difference in scales, do Government propose to rectify this?

(e) Will Government be pleased to state the number of grade I, II, III and IV Booking Clerk posts on each Division of the North Western Railway separately and how the percentage of higher grades compare with other branches of service?

(f) Is it a fact that there are no Booking Clerks of grade II or III on the North Western Railway on purely ticket issuing duty, even at stations where a large number of tickets are sold by each train and for various stations? Are Government aware that a Booking Clerk at such a station has to issue tickets in hot haste to cope with the rush at the ticket window, which results in shortage in cash and his getting base coins? Is it a fact that the Booking Clerks have to make good the shortages? If so, how are the excess collections disposed of? Are they utilized to meet the shortages? If not, why not?

(g) Do Government propose to revise their scales of pay on the North Western Railway, so as to be compatible with the nature of duties performed by them?

(h) Will Government be pleased to state the measures of relief adopted by the Board or the North Western Railway Agency to compensate the staff who make short collections, or accept base coins, in hot haste of issuing tickets to meet with the rush of passengers? If the reply be in the negative, do Government now propose to consider this question?

(i) Is it a fact that certain Booking Clerks on the North Western Railway have been reduced for base coins, having been found in their collections which were due to rush of work? If so, are Government prepared to ensure better conditions of service for the Booking Clerks?

**The Honourable Sir Muhammad Zafrullah Khan:** (a) Government understand that the General Principle followed by the North Western Railway in fixing the scales of pay of employees was that the scale was adequate remuneration for the work done.

(b) This is a hypothetical question. Each case must be considered on its merits.

(c) As regards the first part Government are informed that the duties of a booking clerk are responsible, but where large sums of money have to be handled, senior men are normally posted. As regards the latter part, it is not clear what clerical staff the Honourable Member is referring to. If he will specify the designation of the staff concerned I will attempt to frame a reply.

(d) Government do not consider this necessary. Scales must be fixed in accordance with the principle referred to in the reply given by me to part (a).

(e), (f) and (i). Government have no information. These are matters of detailed administration for the Agent, North Western Railway, to decide to whom I have sent a copy of this question for information.

(g) and (h). I have already stated that the scale of pay for booking clerks is adequate remuneration for the work done by them, and Government are not prepared to revise their scales of pay or increase their remuneration.

#### **REMODELLING OF THE SUKKUR RAILWAY STATION AND WAITING ROOMS FOR PASSENGERS IN THE SIND DIVISION OF THE NORTH WESTERN RAILWAY.**

234. **\*Mr. Lalchand Navalrai:** (a) Do Government propose to remodel the Sukkur Station of the North Western Railway? If so, when and in what form?

(b) Will Government be pleased to state:

- (i) the names of Railway Stations on the North Western Railway, Sind Division, having waiting rooms, for men and women intermediate class passengers; and
- (ii) when they propose to provide such waiting room on other important stations on that Division, and also the names of such stations?

**The Honourable Sir Muhammad Zafrullah Khan:** (a) A scheme for a small remodelling of Sukkur station is under consideration. No decision has yet been reached.

(b) (i). One intermediate class waiting room for ladies exists at Shikarpur.

(ii) The provision of intermediate class waiting rooms for both ladies and gentlemen at Karachi City, Hyderabad, Rohri and Sukkur has been considered, but action has been deferred due to lack of funds.

**REDUCTION OF PERIOD FOR WHICH GATES AT THE LEVEL CROSSING WITHIN THE LARKANA STATION ARE CLOSED.**

235. \***Mr. Lalchand Navalrai:** (a) With reference to my starred question No. 195 asked on the 13th February, 1935, will Government be pleased to state what special working rules have been sanctioned to reduce the period for which gates at level crossing within Larkana station are closed to avoid inconvenience?

(b) Have these rules come into force? If so, since when and with what result?

**The Honourable Sir Muhammad Zafrullah Khan:** (a) I lay on the table of the House a copy of the Special Working Rules for the level-crossing within Larkana Station.

(b) Yes. The rules were brought into force from the 20th February, 1935. There has been a considerable decrease since then in complaints from the public.

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*Extract from Working Rules for Larkana B. G. Class B. Station.*

The Pointsman deputed to the points for reception of down trains, or departure of up trains will not wave the allright green signal till the following action has been taken by the parties concerned. The Station Master on duty will first wave a green signal towards the Pointsman waiting at the points indicating that it is now time for the signal to be lowered, the Pointsman will then see that the gates are immediately closed. Only after this has been done and the points have been set and locked will the Pointsman wave the allright green signal to the Station Master on duty who will then lower the Home signal. In the case of departure of an Up train after correctly setting the trailing points the Pointsman will see the gates closed before lowering the Up Starter. The waving of the green signal by the Pointsman will be an assurance to the Station Master on duty that not only have the points been correctly set and when necessary also locked, but that the level crossing gates have also been secured against road traffic.

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**REMODELLING OF THE LARKANA STATION AND CONSTRUCTION OF A BROAD GAUGE RAILWAY BETWEEN LARKANA AND JACOBABAD.**

236. \***Mr. Lalchand Navalrai:** (a) Do Government propose to make additions and alterations in the present station building and the platform at the Larkana Station? If so, when and in what form?

(b) Do Government propose to consider the desirability of remodelling the station building on the eastern side in line with the present Goods Office? If not, why not?

(c) Do Government propose to build a railway broad gauge line between Larkana and Jacobabad *via* Kambar Alikhan? If so, when?

(d) Do Government propose to improve and make certain additions and alterations in the present platform at the Larkana Station and to build an over-bridge? If so, in what manner and when?

**The Honourable Sir Muhammad Zafrullah Khan:** (a) Government have no knowledge of any such proposal.

(b) The suggestion will be forwarded to the Agent, North Western Railway for consideration. The question of the financial justification of this work, as of all others, has to be considered.

(c) No decision has yet been reached.

(d) No.

### SHORT NOTICE QUESTION AND ANSWER.

#### DIRECT MAIL SERVICE BETWEEN MADRAS AND RANGOON.

**Dr. T. S. S. Rajan:** (a) Is it a fact that Government have decided to stop the direct mail service between Madras and Rangoon in view of the separation of Burma from India?

(b) If so, will Government be pleased to state the reasons for it?

(c) Are Government aware that public interests, particularly those of the trading community—the Chettiar bankers of South India,—who have established themselves in business relations with Burma for years, have protested against the proposal?

(d) Was the opinion of the business interests and that of the public elicited before the proposal was decided upon? If not, why not?

(e) Will the proposed air mail service be timed to commence with the suspension of the direct steamer mail service?

(f) If so, are Government aware that it will not effectively take over all the facilities of direct mail service, both in its cost to the poor man and also in its volume?

(g) Are Government aware that public opinion in Madras is against the proposal, and are Government prepared to continue the present arrangement?

**The Honourable Sir Frank Noyce:** (a) and (b). The direct mail service operating once a week between Madras and Rangoon has been discontinued with effect from the 1st February, 1936. The service was not, however, discontinued for the reason mentioned by the Honourable Member. It was discontinued because it involved avoidable expenditure as three other services per week were available for the conveyance of mails between India and Burma *via* Calcutta. I place on the table a copy of a Press Communiqué issued by the Indian Posts and Telegraphs Department which fully explains the situation.

(c) Yes.

(d) The reply to the first part of the question is in the affirmative. The latter part does not arise.

(e) and (f). The Honourable Member has, I think, misunderstood the reference to Air Mail Services in the Press Communiqué which has issued on the subject. The reference is to the two Air Mail Services which at present operate between Calcutta and Rangoon. It is not intended that the mails formerly conveyed by the direct sea mail service should now be conveyed by air between Calcutta and Rangoon. They will be conveyed by the mail trains running daily between Madras and Calcutta and by the mail steamer services operating thrice a week between Calcutta and Rangoon.

(g) The reply to the first part is in the affirmative. As regards the last part, the direct service has been discontinued from February 1st, 1936, and, in view of the substantial saving effected by its discontinuance, Government do not propose to re-introduce it.

### INDIAN POSTS AND TELEGRAPHS DEPARTMENT.

WITH THE COMPLIMENTS OF THE DIRECTOR-GENERAL OF POSTS AND TELEGRAPHS.

New Delhi, the 30th December, 1935.

#### PRESS COMMUNIQUE.

*Contract for the conveyance of Sea borne mails.*

The agreement between the Secretary of State for India in Council and the British India Steam Navigation Company for the Indian coasting and other mail services, which had been extended for two years from the 1st February, 1934, will expire on 31st January, 1936. In view, however, of the expected air mail developments in 1937, and of the impending separation of Burma from India, both of which may require a modification of the existing sea services, it has been considered necessary to extend the existing agreement for a short period. Further in order to secure in the meantime such savings as may be possible by cancelling those steamer mail services, which provide only an inappreciable benefit to the public, it has been decided that the following steamer mail services should be discontinued :

(1) Line No. 6-(Madras-Rangoon weekly mail service). At present the postings of Wednesdays, Thursdays and of Friday mornings both at Madras and Rangoon are sent on Fridays in each direction by the steamers of this service, while the postings of the other days of the week are sent from both Madras and Rangoon *via* Calcutta. On the abolition of the Madras-Rangoon direct service, mails at present conveyed by that service will be despatched *via* Calcutta. The delay to such mails will not, however, be appreciable except in regard only to the postings of Friday mornings, as will be seen from the table below :

Letters posted in Madras on	Day of arrival in Rangoon.	
	At present.	After abolition of the direct (Madras-Rangoon) service.
Monday . . . . .	Monday . . . . .	Monday.
Tuesday . . . . .	Monday . . . . .	Monday.
Wednesday . . . . .	Monday . . . . .	Monday.
Thursday . . . . .	Monday . . . . .	Tuesday.
Friday morning . . . . .	Monday . . . . .	Tuesday.
Friday evening . . . . .	Friday . . . . .	Friday.
Saturday . . . . .	Friday . . . . .	Friday.
Sunday . . . . .	Friday . . . . .	Friday.

Letters posted in Rangoon on	Day of arrival in Madras	
	At present.	After abolition of the direct (Rangoon-Madras) service.
Monday . . . . .	Saturday . . . . .	Saturday.
Tuesday . . . . .	Saturday . . . . .	Saturday.
Wednesday . . . . .	Monday . . . . .	Tuesday.
Thursday . . . . .	Monday . . . . .	Tuesday.
Friday morning . . . . .	Monday . . . . .	Thursday.
Friday evening . . . . .	Thursday . . . . .	Thursday.
Saturday . . . . .	Thursday . . . . .	Thursday.
Sunday . . . . .	Saturday . . . . .	Saturday.

There are at present two direct air mail services between Rangoon and Calcutta for those who desire special acceleration for their mails.

(2) Line No. 10-(Bombay-Kathiawar Ports-Karachi weekly service). Mails for and from the Kathiawar ports are sent daily by trains, and the despatch by the steamer



service is in addition to this usual daily despatch. Further, no mails from Bombay for Karachi are now sent by the steamers of this line. The direct Bombay-Karachi fast service which is weekly will continue.

2. Arrangements have accordingly been made for a further extension of the present agreement for a period of 14 months from the 1st February, 1936, excluding the mail services on lines Nos. 6 and 10 specified above.

**Dr. T. S. S. Rajan:** Have not Government considered that instead of stopping the only weekly direct mail service between Madras and Rangoon one of the services between Calcutta and Rangoon should, if at all, be discontinued for the sake of economy?

**The Honourable Sir Frank Noyce:** No, Sir.

**Mr. Sami Vencatachelam Chetty:** How long has this service been in existence?

**The Honourable Sir Frank Noyce:** I should require notice of that question.

**Dr. T. S. S. Rajan:** May I ask whether Government do not consider it advisable to stop one of the three weekly services between Calcutta and Rangoon, instead of stopping the only weekly service between Madras and Rangoon?

**The Honourable Sir Frank Noyce:** I can only say that that question was not considered.

**Mr. Sami Vencatachelam Chetty:** Is not the mail between Madras and Rangoon delayed in its transit by this circuitous route by one and a half days a week?

**The Honourable Sir Frank Noyce:** On one and a half days a week?

**Dr. T. S. S. Rajan:** And to that extent, are not the people south of Madras put to a greater inconvenience than the people in Madras itself?

**The Honourable Sir Frank Noyce:** No, Sir. They have the same service available as the people in Madras.

**Dr. T. S. S. Rajan:** Why did not Government consider the alternative of discontinuing one of the three services between Calcutta and Rangoon when discontinuing the only service between Madras and Rangoon?

**The Honourable Sir Frank Noyce:** The question was never raised, and it would have to be very carefully examined.

**Mr. S. Satyamurti:** Is it because Madras is always treated as the Cinderella of all the Provinces?

**The Honourable Sir Frank Noyce:** Certainly not, as long as I am a Member of the Government of India.

**Dr. T. S. S. Rajan:** Is it not the case that insurance parcels are not taken by the air mail?

**The Honourable Sir Frank Noyce:** I think that is so, though I am not quite sure.

**Mr. F. E. James:** Would the Honourable Member be prepared to take up with the shipping company concerned the suggestion made by my Honourable friend over there, *viz.*, that they might make some readjustment in their services whereby the mail service from Madras to Rangoon might be retained, and possibly one of the mail services between Calcutta and Rangoon abolished?

**The Honourable Sir Frank Noyce:** I am quite prepared to consider all the relevant considerations including those which have been raised this morning, before the expiry of the term of the present contract on the 1st April, 1937.

**Mr. S. Satyamurti:** May I take it, therefore, that till that time, Madras will have no direct sea mail services between Madras and Rangoon? Is that the position of the Government of India?

**Mr. Sami Vencatachelam Chetty:** Why should it not be continued till the 1st of April, 1937, when the final decision will be taken?

#### MOTIONS FOR ADJOURNMENT.

##### MISUSE AND MISAPPLICATION OF LEGISLATIVE RULES IN DISALLOWING THE ADJOURNMENT MOTION ON THE BENDA INCIDENT.

**Mr. President** (The Honourable Sir Abdur Rahim): Order, order. I have received notice of a motion for adjournment from Dr. Khare to discuss a definite matter of urgent public importance. The notice reads:

“That the House do stand adjourned to consider a definite matter of urgent public importance, *viz.*, the misuse and misapplication of legislative rules in disallowing the adjournment motion on the Benda incident resulting in serious encroachment upon the rights and privileges of its members.”

That was disallowed on the ground, I believe, that it was detrimental to the public interest, and, under the Rules and Standing Orders, I think the Governor General has the power to do that. I do not see how the Honourable Member is entitled to ask the House to consider whether the action of the Governor General was right or not on an adjournment motion; I do not know what the Honourable Member's authority is for doing so, and under what Rule or Standing Order he proposes to do it. I think the Honourable Member must be aware that it is not permissible for any Member of this House to make any reflection on, or criticize the conduct of, the Governor General.

**Dr. N. B. Khare** (Nagpur Division: Non-Muhammadan): My authority is public interest.

**The Honourable Sir Nripendra Sircar** (Leader of the House): I submit, Sir, this is a misuse, a misapplication and an abuse of the legislative rules. Under Standing Order 29, a “Member while speaking shall not reflect upon the conduct of His Majesty the King or the Governor General

[Sir Nripendra Sircar.]

or any Governor, etc., etc.," I need not read out the whole. I submit, Sir, moving of this motion amounts to a reflection, that is to say, although this is the sole discretion under the rules for disallowing a motion, the reflection is that he ought not to have done it; and that he has made a serious encroachment upon the rights and privileges of the Members of this House and that he has misused his powers under these rules. I submit, Sir, that this motion is not permissible for discussion.

**Mr. S. Satyamurti** (Madras City: Non-Muhammadan Urban): Sir, Standing Order 29, to which my Honourable friend refers, merely restricts the scope of speeches. It simply says:

"That a Member while speaking shall not reflect upon the conduct of His Majesty the King, or the Governor General or any Governor (as distinct from the Government of which they are respectively the heads) or any Court of Law, in the exercise of its judicial functions."

Sir, my Honourable friend, Dr. Khare, is not now asking for permission in the course of his speech, to reflect upon the conduct of the Governor General. Therefore, I submit that this Standing Order has nothing to do with this motion for adjournment which is intended merely to discuss a definite matter of urgent public importance. I submit, Sir, that the disallowance of this motion by the Governor General in the exercise of his statutory powers is not, as if he had done something in his own personal character, and that we should not comment upon that. He has exercised a power which has been conferred upon him in respect of this Honourable House, and he has said that the discussion on that is detrimental to public interest. I submit that, so long as Dr. Khare's motion raises a definite matter of urgent public importance, it is absolutely within the four corners of Standing Order 21 which says:

"Leave to make a motion for an adjournment of the business of the Assembly for the purpose of discussing a definite matter of urgent public importance must be asked",

and under Standing Order 23, you, Mr. President, have to be of the opinion that the matter proposed to be discussed is in order, and then you have to read to the Assembly the statement. I submit, it comes to this. That, according to the Honourable the Law Member, it is impossible for us, because of Standing order 29, which merely restricts the scope of speech, that we can ever discuss any action of the Governor General.

**Mr. President** (The Honourable Sir Abdur Rahim): But the Governor General has disallowed the motion under the rules.

**Mr. S. Satyamurti**: He has disallowed it, because he is of the opinion that it is detrimental to public interest. We are not now questioning his rights. In this specific case, we say that the exercise of that right is not right.

**Mr. President** (The Honourable Sir Abdur Rahim): But so far as this House is concerned, the decision of the Governor General is final.

**Mr. S. Satyamurti**: His decision is final, that is to say, we cannot discuss the motion which he has disallowed. But we can say, he is

wrong in disallowing that motion. My point is this, that it is a final decision, only in the sense that you cannot allow the House to discuss that motion. I agree that the motion is finished, so far as discussion thereon is concerned. But, certainly, we have the right to say that he is wrong in the hope, that hereafter he will not do it. The point is, that, if the House says that his exercise of the right under the rules is wrong, the advantage to the House is that he may not do it hereafter. Moreover, it is final in this sense that it binds you and this House. His order is final and we cannot discuss the motion. But we can certainly discuss whether it is right for him to have done that. That is the point which Dr. Khare raises in this motion, and I submit there is nothing in the Rules or Standing Orders which bars a motion of this character. I submit, it is in order.

**The Honourable Sir Nripendra Sircar:** May I say in reply a few words? My Honourable friend's point is that Standing Order 29 relates only to restriction of speeches. My point is that Dr. Khare cannot move this motion, because the first thing for him will be to read the motion and say, "I move that the House do stand adjourned to consider a definite matter, namely, the misuse and misapplication of the Legislative Rules" which must have been done by the Governor General in disallowing the adjournment motion. The motion itself, and the language which has got to be read out, and this is not permissible under the Standing Order.

**Dr. N. B. Khare:** We also claim to know the public interest as anybody else.

**Mr. President** (The Honourable Sir Abdur Rahim): I have no hesitation in ruling that this motion is out of order. Under the rules, the Governor General is vested with the power to disallow any motion for adjournment, if, in his opinion, it is detrimental to public interest and that decision is final. The Standing Order to which reference has been made lays down that no Honourable Member in this House can make any speech reflecting upon the conduct of the Governor General. The present motion is made in order to criticize the conduct of the Governor General in passing the order which he has done under the rules governing the conduct of the proceedings of this House. There is also a ruling reported at page 2497, Vol. V, Part III, dated the 17th March, 1925, of the Legislative Assembly Debates, in which, in a similar case, the President ruled:

"The Honourable Member is not entitled to raise it in order to discuss the action of the Governor General. Any action taken by the Governor General, apart from the Government of which he is the head—(these are the words that appear in the rule)—is outside the scope of the debate in this House".

I, therefore, rule that the motion is out of order.

#### DIRECT SEA MAIL SERVICE BETWEEN MADRAS AND RANGOON.

**Mr. President** (The Honourable Sir Abdur Rahim): Notice of a motion has been given by Mr. Sami Venkatachalam Chetty to the effect that he intends:

"Asking leave of the Honourable the President and of the House to move an adjournment motion to discuss a matter of urgent public importance, i.e., the refusal of the Government to reconsider the decision to discontinue the direct sea mail service between Madras and Rangoon from 1st February, 1936."

**The Honourable Sir Nripendra Sircar** (Leader of the House): Sir, notice of this motion was given in this language on the 31st January 1936.

“This Assembly do stand adjourned to discuss a definite matter of urgent public importance, *viz.*, the contemplated act of the Government to abolish the annual contract for sea mail service between Madras and Burma.”

This is dated the 31st January, 1936. The Assembly started its Session on the 3rd February by which time the “contemplated” act had been accomplished.

**Mr. President** (The Honourable Sir Abdur Rahim): When was the decision taken?

**The Honourable Sir Nripendra Sircar**: Long before; but the service came to end on the 31st January, so that, on the 1st February, there was no service. In fact, when the Assembly commenced its Session on the 3rd February, this was an accomplished fact, namely, the service has ceased to continue. Then, Sir, this motion came up on the 4th February or the 5th February—I am not sure of the day, I think it was on the 4th February, but it may be on the 5th February—when the Honourable Member said that he did not move that motion and that he withdrew it.

**Mr. President** (The Honourable Sir Abdur Rahim): The wording of that motion was “contemplated decision”.

**The Honourable Sir Frank Noyce** (Member for Industries and Labour): The decision has already been taken. As I have already said this morning, the direct sea mail service was discontinued with effect from the 1st February, so that, on the 4th or 5th February, there was no service existing.

**Mr. President** (The Honourable Sir Abdur Rahim): I mean that in the motion for adjournment the language was “contemplated decision”.

**The Honourable Sir Nripendra Sircar**: No doubt the language of the motion was the “contemplated decision”. The notice shows that it would come to an end on the 31st January, so that, when the actual time arrived for moving that motion, the thing was over. Further, the Honourable Member might have given another notice on the very next day, that is 5th or 6th or 7th February. But, surely, because, after a week, the matter has been refused to be reconsidered, it is not like a continuing cause of action, it is not that every time the Government refuse to reconsider, the urgency revives. I submit this ought not to be allowed.

**Mr. Sami Vencatachelam Chetty** (Madras: Indian Commerce): Sir, in reply to the Honourable Member, I may say that when I gave notice of the first adjournment motion, that was a matter between the Honourable Members of this House and the Honourable the President. Unless the matter was taken up on the floor of the House in respect of particularly an adjournment motion, I do not think that Government as such need take any notice of it. The adjournment motion which I originally gave notice of . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The question now is, why was there this delay?

**Mr. Sami Vencatachelam Chetty:** The delay was due to the attempts made with the Honourable Member of Government to persuade him to restore this. Though this service might have been terminated on the 1st February, . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): Were these attempts made by the Honourable Member himself?

**Mr. Sami Vencatachelam Chetty:** Yes, Sir, with the Government Member. Not only that, there is another point. Though the service might have been officially terminated on the 1st February, the actual effect that would be made on the public would only be on the 6th of this month, because it was on Friday morning that Madras can post its mails. It is only then that the public could know that there was no direct mail service on Friday. So I am moving it on Monday which is the first available day. The actual termination was felt . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): Was the decision taken on the 1st February?

**Mr. Sami Vencatachelam Chetty:** We could not know. As a matter of fact, the information was that it was contemplated to stop this service. On Friday last, we had a conference with the Honourable Member of Government, and then we found, to our utter disappointment, that he was not willing to reconsider the matter. And we were also waiting for some revision of their decision.

**Mr. President** (The Honourable Sir Abdur Rahim): Was any conference called by Government?

**Mr. Sami Vencatachelam Chetty:** No, it was by mutual consent. We agreed to meet and talk the matter over.

**The Honourable Sir Nripendra Sircar:** Sir, may I correct a statement of fact? A communiqué was issued on the 30th December in which it was stated that this thing will come into operation after the 31st January which means that from the 5th February there will be no direct service between Madras and Rangoon.

**Mr. Sami Vencatachelam Chetty:** If on the 30th December they were sure of their position, they need not have written to the Post Master General, Madras, to confer with the merchants and the public there.

**Mr. President** (The Honourable Sir Abdur Rahim): Was any communiqué issued like that?

**Mr. Sami Vencatachelam Chetty:** Not that I am aware of. Probably it might have been issued, but Government made us believe that it was not a final thing, because they asked the Post Master General, Madras, to call for a conference of merchants and the public in Madras and to have a talk on this matter. Then, as early as on the 6th February, the Honourable Sir Frank Noyce wrote to me, enclosing a copy of a statement wherein he has attempted to show that there was not much inconvenience

[Mr. Sami Vencatachelam Chetty.]

that might be felt by the Madras public if this service should be discontinued. Therefore, there was a ray of hope that was extended to the public that the Honourable Member might reconsider the position. As a matter of fact, an attempt was made and even at the last conference we expected some change in regard to the answers to the short notice questions. And when we found that even then the position has not changed, we felt that the urgency has arisen, and it is undoubtedly a matter of public importance.

**The Honourable Sir Frank Noyce:** Sir, I should like to explain with reference to what has fallen from my Honourable friend that Government have never at any time held out hopes of reconsideration of this matter. The conference which was held in January at Madras by the Post Master General was merely to explain Government's position. And the conference that I had with my Honourable friends and the statements with which I supplied them were entirely with that view, namely, to explain why Government do not propose to reconsider this matter. At no time has any hope of reconsideration of their decision been held out.

**Mr. President** (The Honourable Sir Abdur Rahim): In the circumstances of this case, I must hold that the Honourable Member is too late now to give this notice. And I find there is a ruling, ruling No. 532, given on the 31st August, 1933, to the effect that, with reference to any motion for adjournment, the Chair would not take notice of any private conference or correspondence that may take place. I agree with that ruling, and I, therefore, rule this motion out of order.

#### LOSS OF INDIAN LIFE AND PROPERTY IN ZANZIBAR.

**Mr. President** (The Honourable Sir Abdur Rahim): The third motion stands in the name of Mr. Avinashilingam Chettiar who proposes to move the adjournment of the House to discuss the loss of Indian life and property in Zanzibar in the severe rioting that took place there and in Uganda.

**Sir Girja Shankar Bajpai** (Secretary, Department of Education, Health and Lands): Sir, I think, when answering the second question this morning, I pointed out that there was no information available to the Government of India apart from what was published in the press yesterday. The information in the press was that there was rioting by the Arabs in which one European officer and one Indian officer were killed. As soon as the information reached us, we sent a telegram to the Secretary of State and have asked for full particulars. I suggest for the convenience of the House that the best way to deal with this matter would be for me to answer a short notice question as soon as the information is available.

**Mr. T. S. Avinashilingam Chettiar** (Salem and Coimbatore *cum* North Arcot: Non-Muhammadian Rural): Sir, I will refer you to decision No. 17 of the Decisions from the Chair in which it was ruled:

"The fact that the Government is not ready to give a proper reply to the question raised by the motion for adjournment is no ground on which the Chair can disallow that motion."

**Mr. President** (The Honourable Sir Abdur Rahim): This is said to have occurred in Zanzibar and Government have not got sufficient information. What purpose would be served by a motion like this?

**Mr. T. S. Avinashilingam Chettiar**: The very same objection was taken there:

“Mr. T. C. Goswami sought to move the adjournment of the House to discuss the hunger strike of certain State Prisoners . . . .”

**Mr. President** (The Honourable Sir Abdur Rahim): State Prisoners in Zanzibar? (Laughter.)

**Mr. T. S. Avinashilingam Chettiar**: I will read it out:

“And Sir Alexander Muddiman opposed the motion on the ground that he would not be in a position to give a proper reply on the matter.”

‘Afterwards, the President gave that ruling.

**Mr. President** (The Honourable Sir Abdur Rahim): I think, if the Honourable Member really wants to discuss this matter usefully, he had better wait and put a short notice question as suggested when the information is in possession of Government. I disallow this motion.

**Mr. T. S. Avinashilingam Chettiar**: I hope Government will not, when we table another motion later on, take the objection that we are too late.

#### DEMAND OF SECURITY FROM THE *Athyudaya* OF ALLAHABAD.

**Mr. President** (The Honourable Sir Abdur Rahim): The next motion is that of which notice has been given by Sardar Sant Singh, which he wishes to move, to this effect:

“In view of the action of the Local Government in demanding security from the *Abhyudaya* of Allahabad for printing the full text of the speech of Pandit Krishna Kant Malaviya made in the Assembly on the 6th September, 1935, in Simla during the discussion on the Criminal Law (Amendment) Bill, the Assembly do proceed to discuss the question of the privilege of the freedom of speech and its publication in the Press enjoyed by the Members of the Assembly.”

I should like to know whether this speech was published in the Press in this paper at the instance of the Member concerned who made the speech. I have not seen the paper myself.

**Pandit Krishna Kant Malaviya** (Benares and Gorakhpur Divisions: Non-Muhammadan Rural): It is my own paper.

**Mr. President** (The Honourable Sir Abdur Rahim): Did the Honourable Member himself have the speech published in that paper?

**Pandit Krishna Kant Malaviya**: It is my own paper and it published my speech. I did not send a copy of my speech to it.

**Mr. President** (The Honourable Sir Abdur Rahim): Has the Honourable Member got a copy of the paper?



**Pandit Krishna Kant Malaviya:** I have not got it.

**The Honourable Sir Nripendra Sircar** (Leader of the House): We have got it, and we can raise a point that it is not mere republication. I have some objections in regard to this motion being taken up in the way it is proposed. My Honourable friend's motion states:

"I may add that no notice is necessary to discuss the question of privilege and that such motion has precedence over all other work in the House."

I will state my objections on bar as concisely as possible. If I may refer you to page 264 of May's Parliamentary Practice, you will find that on page 264. It reads:

"A privilege matter may also be brought forward without notice, before the commencement of public business, and is considered immediately, on the assumption that the matter is brought forward without delay, and that its immediate consideration is essential to the dignity of the House."

If I may give you another reference, you will find that, on page 471 of the same book, if the motion is entertained, a committee is at once formed which has got to make its report. My contention is that even in England, assuming that there is such a privilege as is claimed, this motion could not be moved without notice. I do not concede that and the matter may have got to be discussed later on the merits whether there is any privilege . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): Provided there is a *primâ facie* case.

**The Honourable Sir Nripendra Sircar:** You may drop this for the moment; it is not very important on the question of admissibility without notice as it refers to the appointment of a committee after the case has been made out. I will come to page 269 of the same book:

"As precedence is naturally desired by members, care has been taken, by rulings from the Chair, not to extend that claim to any motion which does not strictly relate to an urgent matter of privilege, properly so called; and many motions, more or less affecting privilege, have been brought on in their turn, with other notices of motions."

Now, Sir, what is meant by being really urgent, and when a motion can be made without notice, if the procedure stated in May has to be followed, is explained at page 266:

"So also, when, during the session of 1887, a motion was brought forward based on charges brought by the *Times* newspaper against certain members of the House, the motion was ruled not to be a motion of privilege, because it was not a matter requiring immediate consideration: \* \* \* but in the year 1890, a motion bearing on the subject of those charges, asserting that they were a libel on the House, was treated as of privilege, being brought forward at the earliest moment, the first day of the session, and because the charges were undoubtedly designed to influence the proceedings of the House."

I lay emphasis on "first day", and my point is that this motion, assuming that we follow the English practice, of which I say nothing now, ought to have been made at once. If it is said that the Mover tried to move an adjournment motion, that again was disallowed.

**Mr. President** (The Honourable Sir Abdur Rahim): That adjournment motion related to the same subject, but was disallowed by the Governor General.

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

**Mr. President** (The Honourable Sir Abdur Rahim): The Chair disallowed the second on two grounds, firstly because notice was not given in time, and also because such a motion could not be raised on an adjournment motion.

**The Honourable Sir Nripendra Sircar**: My point is that, if we are following the English practice, the motion should have been made at the earliest possible time. He might have made his application on the 4th or 5th, or on the 6th, or on the 7th.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member means that the last motion was disallowed on the 4th?

**The Honourable Sir Nripendra Sircar**: That was on the 6th; therefore, he could have given and he ought to have given notice on the morning of the 7th.

**Mr. President** (The Honourable Sir Abdur Rahim): Notice was given on the 7th, but he moved it today.

**The Honourable Sir Nripendra Sircar**: It was not moved on the 7th, and he ought to have moved on the 7th before other business. He could have given notice on the morning of the 7th. That is the procedure, but, I submit, Sir, that the conditions with which this extraordinary procedure is hedged in should be fulfilled in the strictest manner. After all, on light grounds, we should not be allowed to cut into the day's proceedings. If you follow the English practice, condition No. 2 is that he must make out a *prima facie* case and produce the newspaper upon which or the other piece of paper upon which his complaint is based. I draw your attention, Sir, to the last line on page 98: "the newspaper itself must be produced." Again, at the top of page 99, it says:

"A member complaining of the report of his speech in a newspaper has been stopped by the Speaker when it appeared that he had not got the newspaper on which to found his complaint."

I shall come at once to the point and I am not raising this as a technicality. It is of substance in the present case on its facts. It is good sense that, if he has got to make out a charge, he must place materials before this House to show that a *prima facie* case has been made out. That is my second objection.

Then, if the paper is produced, what is the position? You will see that my friend claims a very limited privilege—I am reading his motion:

"Discuss the question of privilege of the freedom of speech and its publication in the Press enjoyed by the Members of the Assembly."

[Sir Nripendra Sircar.]

Let us see what was published: I had not the paper before: I got it only yesterday—I have got it now . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Chair does not think it makes any difference who produces it.

**The Honourable Sir Nripendra Sircar:** No, I produce it: it will help to understand the situation. I am afraid, I cannot show it clearly to the whole House: if the President will kindly look at it, this is where the speech begins. The headline is: "Speech by Mr. Krishna Kant Malaviya in the Assembly on such and such a day." As a preface to it, there is an article on the subject, extolling the speaker and condemning Sir Henry Craik on the same page. The article on the speech is on the previous page and it is carried over to another page. Now, I come to the speech. This is a reproduction of the speech, it begins here: of course it covers several pages. Translation, not very literal, of the entire speech is given; this is not republishing the speech—it is a free translation. In the translation, there are headlines which form no part of the speech, and, of course, the writer, who is going to see it printed and published, would naturally have sensational headlines. But, in the middle of this speech, there is a very ornamental border and the inset is a poem of fourteen lines . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): That was not in the speech at all?

**The Honourable Sir Nripendra Sircar:** No; and the translation of that poetry is that "those who ought to protect us are the people who kill us". There are seven couplets; and, in the third couplet, there is a pun on the word "Azad". The President will remember that Azad was the man about whom there was trouble. He was an admitted terrorist—but I need not go into that subject now. The complaint made was that the speaker was extolling a terrorist—I may be quite wrong in saying that—but that was the complaint made, that he was extolling Azad, a terrorist. These lines were printed in the most prominent manner with double borders just in the centre of the speech, with the headline that those who ought to keep us are destroying us. The couplet contains a pun on the word "Azad". The first couplet is:

"Let those who pile cruelty upon cruelty and injustice upon injustice beware that we raise our complaint."

The second couplet is:

"Even in captivity we were silent until the issue became life or death. Let them say: How else may the captor (literally the trapper, of birds) be humoured?"

**Mr. Muhammad Azhar Ali** (Lucknow and Fyzabad Divisions: Muhammadan Rural): I rise to a point of order: my friend is discussing the merits of the whole speech.

**Mr. President** (The Honourable Sir Abdur Rahim): The Chair has to be satisfied that there is a *prima facie* case of privilege.

**The Honourable Sir Nripendra Sircar:** Only one more couplet . . .

**Mr. Sri Prakasa** (Allahabad and Jhansi Divisions: Non-Muhammadan-Rural): I rise to a point of order. The security was taken from the *Abhyudaya*, not for the poem which the Honourable Member is reciting with so much gusto, but for the reproduction of the speech. These objectionable passages of the speech are definitely mentioned.

**Mr. President** (The Honourable Sir Abdur Rahim): The Chair will hear the Honourable Member, if necessary, after the Leader of the House has finished.

**The Honourable Sir Nripendra Sircar:** We are not concerned with the fact that the Government wanted security nor what the Government complained of. The Mover has got to establish, before he can interrupt the work of the House by moving a motion without notice, that there is a *prima facie* case of privilege: that is, that he has only republished the article, and, in consequence of that, he has come to grief. The question is, is this mere republishing? I am trying to make the first point that this is not mere republication at all. We are not concerned with what Government complained of.

**Mr. Sri Prakasa:** What has the poem got to do with it?

**The Honourable Sir Nripendra Sircar:** I am not giving way: my friend can repeat the word "gusto" once more if he likes. The poem in the centre makes the publication very different from the speech delivered in the House. I said, the pun is on the word "Azad". "Azad" literally means to be free; but the other possible meaning of the pun is that these people, who are going to liberate themselves and their brothers from their tormentors, like Azad. Is this inset and the manner in which it is printed a reproduction, apart from the fact that it is a loose translation and that there are headlines which do not appear in the speech itself? Does "republication" extend to a translation with headlines and with insets containing other objectionable passages? Is that republication? That is my next point. . . .

**Mr. M. S. Aney** (Berar Representative): Does the Honourable Member mean. . . .

**The Honourable Sir Nripendra Sircar:** I do not give way. . . .

**Mr. M. S. Aney:** I am trying to understand you.

**The Honourable Sir Nripendra Sircar:** As everyone else is understanding me, I need not mind my Honourable friend. . . .

**Mr. M. S. Aney:** You do not mind being unintelligible to everybody.

**The Honourable Sir Nripendra Sircar:** I do. Now, Sir, I base an argument on rule 6 of the Indian Legislative Rules—page 8 of this book. It says:

"The Governor General, after considering the state of business of that chamber, shall allot so many days as may in his opinion be possible, compatible with the public interests, for the business of non-official members in that chamber and may allow

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different days for the disposal of different classes of such business and on days so allotted for any particular class of business, the business for that class shall have precedence. On other days, no business other than Government business shall be transacted except with the consent of the Governor General in Council."

There is only one exception to this rule which is mandatory and which is an exception to the rule that no other business shall be conducted: that exception is created by—I will give you the reference to the order—rule 12, taken with Standing Order 23, which refers to adjournment motions. If an adjournment motion is in order, then it has got to be set down for hearing from 4 to 6 P.M., whether it is on an official or non-official day. That is the only exception, and, subject to that exception, I submit, this rule is quite mandatory, and on other days no business other than Government business can be transacted except with the consent of the Governor General, and Sardar Sant Singh's business cannot be discussed today.

Then, Sir, my next objection is based on rule 24A(1) of the Indian Legislative Rules which says:

"Save in so far as is otherwise provided by these rules or in any case in which a communication is to be made to the Governor General under any provision of the Government of India Act or of these rules, no discussion of a matter of general public interest shall take place otherwise than on a Resolution moved in accordance with the rules governing the moving of Resolutions except with the consent of the President and of the Member of the Government to whose department the motion relates."

Now, Sir, this is a question of general public interest. Of that, there cannot be the slightest doubt. Now, what happens in this case? The order was issued on the 10th of January. . . .

**Mr. President** (The Honourable Sir Abdur Rahim): What was the nature of the order?

**The Honourable Sir Nripendra Sircar:** The order was for deposit of security to the extent of Rs. 2,500 under sub-section (3) of section 7 of the Press Emergency Powers Act, Act XXIII of 1931. They were asked to deposit security, no action has been taken against the Member. My friend has not even got a copy of the order, but I have. They were asked to give security by the 25th of January, and they were given 15 'days' time. On the 24th, the paper stopped publication. . . .

**Mr. President** (The Honourable Sir Abdur Rahim): What was the date?

**The Honourable Sir Nripendra Sircar:** The order was dated the 10th of January, and they were asked to give security within a fortnight.

**Sardar Sant Singh** (West Punjab: Sikh): Sir, I have got a copy of the original order.

**The Honourable Sir Nripendra Sircar:** Then I withdraw my statement that he had not got a copy of the order. I am really glad that my friend has got something.

Now, as I was saying, the paper stopped publication on the 24th of January, and a complaint was made about the injustice of this order, not so much because the press owner, Pandit Malaviya, was affected, but because its thousands of readers and all newspapers and their readers will be affected by an order of this kind, with which I agree. Now, Sir, if we come to rule 24A, as the paper itself says, it is a question of the greatest general public importance. The people who are affected are not merely the Members of the House, but the newspaper reading public, owners of newspapers and so on. If it is a matter of general public importance, then, under rule 24A, this cannot be accepted. . . .

**Mr. President** (The Honourable Sir Abdur Rahim): What is the number of the Standing Order?

**The Honourable Sir Nripendra Sircar**: Indian Legislative Rules, rule 24A, and, under this, there can be no discussion, whether you call it a motion or a Resolution or a privileged matter. . . .

**Mr. President** (The Honourable Sir Abdur Rahim): Supposing on the assumption that it does, does it extend to action of the Criminal Court?

**The Honourable Sir Nripendra Sircar**: No, Sir; it does not. I did not purposely go into the question of merits.

**Mr. President** (The Honourable Sir Abdur Rahim): The Chair wants to see the reference.

**The Honourable Sir Nripendra Sircar**: I would refer you, Sir, to the second paragraph at page 266 of May's Parliamentary Practice. This is what it says:

"A question of order in the House, or in a Committee thereof, cannot be treated as a matter of privilege; and, as the privilege of freedom from arrest is limited to civil causes, and cannot be pleaded to arrests",

—this is not a case of arrest here,—

"made on a criminal charge, or to enforce the administration of justice, the circumstances attending arrest or imprisonment for these causes cannot be brought before the House as a matter of privilege."

The other reference is at the bottom of page 120 of May's Parliamentary Practice, but, before I resume my seat, I shall give the House one more reference from May, and that is at page 108. It says this:

"If a Member publishes his speech, his printed statement becomes a separate publication, unconnected with any proceedings in the Parliament. This view of the law has been established by two remarkable cases. In 1795, an information was filed against Lord Abington for a libel. He had accused his attorney of improper professional conduct in a speech delivered in the House of Lords, which he afterwards published in several newspapers at his own expense. Lord Abington pleaded his own case in the Court of King's Bench, and contended that he had a right to print what he had, by the Law of Parliament, a right to speak: but Lord Kenyon said, that a "member of Parliament had certainly a right to publish his speech, but that speech should not be made a vehicle of slander against any individual; if it was, it was a libel."

[Sir Nripendra Sircar.]

But whether the publication itself comes under section 7(3) or not, that is a matter which may require to be gone into by the High Court, but you cannot say that, because you made the speech, and, therefore, you can publish it. In the case I have cited above, "the Court gave judgment that His Lordship should be imprisoned for three months, pay a fine of 100 l. and find security for his good behaviour".

Again:

"In 1813, a much stronger case occurred. Mr. Creevey, a member of the House of Commons, had made a charge against an individual in the House, and incorrect reports of his speech having appeared in several newspapers, Mr. Creevey sent a correct report to the editor of a newspaper, with a request that he would publish it. Upon an information filed against him, the jury found the defendant guilty of libel, and the King's Bench refused an application for a new trial. Mr. Creevey, who had been fined 100l. complained to the House of the proceedings of the King's Bench: but the House refused to admit that they were a breach of privilege."

The House of Commons ruled that there is no privilege for a republished speech.

The House itself said that it had no privilege for a speech which he had got republished. There is another case, it is a very long case. The purport of it is this, that if it is a fair and faithful report of a speech in the House of Commons, then it can be used as basis for libel action. Civil or Criminal, . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): What is the number of this Rule?

**The Honourable Sir Nripendra Sircar:** Section 67(7) of the Government of India Act, Manual, page 72. This is what it says:

"Subject to the rules and standing orders affecting the chamber, there shall be freedom of speech in both chambers of the Indian Legislature. No person shall be liable to any proceedings in any court by reason of his speech or vote in either Chamber, or by reason of anything contained in any official report of the proceedings of either chamber."

This is the right given by Statute. This Subordinate Legislature has no "privilege" like that enjoyed by Parliament, under ancient custom.

**Mr. President** (The Honourable Sir Abdur Rahim): That is a privilege of the person making the speech, and no action is taken against him on that speech.

**The Honourable Sir Nripendra Sircar:** Yes, and the number which contained this article has not been prevented from being circulated. Millions and millions of people can read it now.

These are my objections, Sir, and I submit that this extraordinary procedure of indulging in a discussion like this without notice of motion, and cutting into the day's work, should not be allowed to go on until all the conditions have been fulfilled.

**Mr. R. S. Sarma** (Nominated Non-Official): Irrespective of this technical and legal objection that the Honourable the Law Member  
 1 P.M. has taken, I want to object to it on a matter of fact which is relevant to the question, namely, whether he has got a copy of the

publication in which this speech was published. I maintain that the speech, as published in the paper, was not the speech delivered on the floor of this House.

**Sardar Sant Singh:** I am thankful to the Honourable the Law Member who has so chivalrously informed me beforehand of the objections which he wanted to take to this motion, and for that I think the thanks of this House are due to him.

**Mr. President** (The Honourable Sir Abdur Rahim): Let the Honourable Member address himself to the objections which have already been taken in the House.

**Sardar Sant Singh:** I am coming to that. There is no doubt that the question involved in my motion is a question of vital importance to the Members of this House. It would have been better if the Honourable Member had not taken any technical objections, for the simple reason that every Member of this House is entitled to know where he stands in the matter of freedom of speech allowed to Members of this House. At the same time, the Members ought to know how far they are right and are privileged to publish the speeches of Honourable Members. However, as the Honourable the Law Member has chosen to take objection to my motion on technical grounds, I proceed to deal with them *seriatim*.

The first objection that the Honourable Member has taken is that I ought to have made this objection at the earliest opportunity. I gave notice of an adjournment motion on the first day of the opening of the Session. I did not know that my motion would be ruled out of order. . . .

**Mr. President** (The Honourable Sir Abdur Rahim): It was disallowed by the Governor General on the ground that it was not primarily the concern of the Governor General in Council.

**Sardar Sant Singh:** Next, Sir, I took the step of tabling an adjournment motion on the question of privilege. It was disallowed by you on the ground that such a motion could not form part of an adjournment motion.

**Mr. President** (The Honourable Sir Abdur Rahim): On two grounds. One was that it was not urgent under the rules and Standing Orders.

**Sardar Sant Singh:** Then I had to consider my position as regards the method I should adopt to bring the question before the Honourable Members of this House. After studying the question fully, my difficulty was this, that on a previous occasion, that is, on the 10th February, 1932, exactly four years before today, when I raised this question, it was allowed in this House and ultimately the Honourable the Law Member gave the opinion in writing to which I referred the other day, that the Ordinances and the Press Laws did not affect the privileges of the House in any way. As that too was the subject of an adjournment motion, I thought that the privileges of the House could be the subject of an adjournment motion. But, as it was disallowed, I had to reconsider my position and find out ways by which to bring it before the House.



**Mr. President** (The Honourable Sir Abdur Rahim): As the Chair has mentioned to the Honourable Member, it was disallowed on two grounds—one, that notice was not given of that particular motion on the very first day. Notice was given of a different motion, though relating to the same subject, and it was disallowed by the Governor General. The Chair can tell the Honourable Member, so far as an adjournment motion is concerned, that on a proper case it will be prepared to reconsider the question if a question arises again. The previous motion was disallowed by the Chair on two grounds as already mentioned.

**Sardar Sant Singh:** Now, the position is, my Honourable friend has quoted from May's Parliamentary Practice at page 64.

**Mr. President** (The Honourable Sir Abdur Rahim): The Chair would like to know what is the Honourable Member's reply as regards *prima facie* case. The Chair will then hear the Honourable Member on the point that there is no authority under the rules and Standing Orders for bringing in a motion like this.

**Sardar Sant Singh:** I will meet these two points. As regards the *prima facie* case, my motion reads like this:

"In view of the action of the Local Government in demanding security from the *Abhyudaya* of Allahabad for priting the full text of the speech of Pandit K. K. Malaviya, M.L.A., made in the Assembly on the 6th September, 1935, in Simla, during the discussion on the Criminal Law Amendment Bill, the Assembly do proceed to discuss the question of the privilege of the freedom of speech and its publication in the press enjoyed by the Members of the Assembly."

As regards the last phrase in my motion, "enjoyed by the Members of the Assembly", I take my stand on the written opinion of the Law Member given in this House on this very question about the freedom of speech and its publication. So, there can be no doubt that Honourable Members of this House do enjoy this privilege according to that written opinion.

**Mr. President** (The Honourable Sir Abdur Rahim): Is that opinion published?

**Sardar Sant Singh:** Yes, Sir, at page 722, Volume I of 1932 Debates. It runs as follows:

"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 not made any 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."

**The Honourable Sir Nripendra Sircar:** How is that relevant? I do not rely on any Ordinances.

**Mr. President** (The Honourable Sir Abdur Rahim): The question is this. The Chair might make it clear to the Honourable Member. As regards a *prima facie* case to be made out, does privilege extend to publication by a newspaper of a speech of any Honourable Member of this House? Does the privilege extend to that?

**Sardar Sant Singh:** The present case is that an Honourable Member of this House published his speech in a paper and that paper has been called upon to furnish security for its publication. With your permission, I will read the order of the Local Government:

“Notice under section 7(3) of the Indian Press (Emergency Powers) Act, 1931, (Act XXIII of 1931):

To

The Publisher of the *Abhyudaya* newspaper, Allahabad.

WHEREAS it appears to the Governor in Council that the *Abhyudaya* newspaper of Allahabad contains in its issue dated October 15, 1935, an article headed ‘Assembly men Pandit Krishna Kant Ji Ki baktrita’ (Speech of Pandit Krishna Kant in the Assembly) which contains words of the nature described in the sub-section (1) (b) of section 4 of the Indian Press (Emergency Powers) Act, 1931, an English translation of the objectionable passage of which article is attached to this notice. Now, THEREFORE, in exercise of the power conferred by sub-section (3) of section 7 of the said Act, the Governor in Council hereby requires you to deposit with the District Magistrate of Allahabad security to the amount of Rs. 2,500 (rupees two thousand and five hundred) only in cash on or before January 25, 1936.

(Sd.) H. BOMFORD,

*By order of the Governor in Council.*”

*Lucknow, 10th January, 1936.*

That is the order of the Local Government. Here the order clearly states that this action has been taken by the Local Government in connection with the speech of Pandit Krishna Kant Malaviya in the Assembly.

**Mr. President** (The Honourable Sir Abdur Rahim): Is the publication of that speech in the newspaper privileged?

**Sardar Sant Singh:** Yes, Sir. I will, in this connection, read a short passage from May’s Parliamentary Practice. It is on page 107, the last paragraph. It reads:

“If a member should say nothing disrespectful to the house or the chair, or personally opprobrious to other members, or in violation of other rules of the house, he may state whatever he thinks fit in debate, however offensive it may be to the feelings, or injurious to the character, of individuals; and he is protected by his privilege from any action for libel, as well as from any other question or molestation.”

It is on the word “molestation” that I base my argument.

**Mr. President** (The Honourable Sir Abdur Rahim): That does not refer to publication in a newspaper?

**Sardar Sant Singh:** That is also protected.

**Mr. President** (The Honourable Sir Abdur Rahim): As regards the rule or law, all that it says is that no person shall be liable to any proceedings in any Court by reason of his speech or vote in either Chamber. If any action had been taken against the Member who delivered the speech, then, undoubtedly, that might be an answer in the Court.

**Sardar Sant Singh:** My submission is that it protects the Press which publishes the speech. Otherwise, such a privilege would be meaningless.

**Mr. President** (The Honourable Sir Abdur Rahim): That is exactly the point. Where does the Honourable Member find that?

**Sardar Sant Singh:** It is in paragraph 3. A Member of Parliament had certainly a right to publish his speech, but that speech should not be made a vehicle of slander against any individual. If it was, it was a libel. He has a right to publish his speech, provided no third parties are slandered.

**Mr. President** (The Honourable Sir Abdur Rahim): That plea was taken in the Court itself.

**Sardar Sant Singh:** Here the matter has been taken up by a Local Government which is the executive authority in the land.

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

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

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**Sardar Sant Singh:** Sir, I was discussing the point whether Members of this Honourable House have got the privilege of publishing their speeches in the public press and whether the privilege of the freedom of speech extends to such publication. My submission is that the Honourable the Law Member has quoted two cases. One is the case of Lord Abingdon at page 108 of May's Parliamentary Practice. In that case, it was decided by Lord Kenyon that:

“A member of Parliament had certainly a right to publish his speech, but that speech should not be made a vehicle of slander against any individual; if it was, it was a libel.”

So this case, instead of going against me, really goes to establish my proposition that if there is any freedom of speech in the House, it naturally follows that that freedom extends further to publishing the same, provided.....

**Mr. President** (The Honourable Sir Abdur Rahim): If it contains any actionable matter, then action can be taken?

**Sardar Sant Singh:** By a third individual. All these cases unfortunately relate to the law of libel, where third individuals were concerned. Here, Sir, there was one Mr. Wason's case given:

“The Lord Chief Justice of England, in a more recent case, further laid it down, that ‘if a member publishes his own speech, reflecting upon the character of another person, and omits to publish the rest of the debate, the publication would not be fair, and so would not be privileged’, but that a fair and faithful report of the whole debate would not be actionable.”

**The Honourable Sir Nripendra Sircar** : That was a libel case.

**Sardar Sant Singh** : My submission is that the cases quoted above go to establish the proposition that the freedom of publishing a speech is conceded so long as it does not slander any third individual. The position is further made clear if we take into consideration the fact that the House itself has the power to ban the publication of any speech outside the House. It is within the privilege of the House to say that a particular speech should not be allowed to be published outside. The Parliament has been exercising such powers from time to time. At page 205 of May's Parliamentary Practice, in a foot-note, the following case is quoted :

"On these occasions, the house further resolved that the remainder of the day's sitting should be a 'secret session'. By an Order in Council of 22nd April, 1916, a regulation (No. 27-A) was made under the Defence of the Realm Consolidation Act, 1914, by which it was provided that if either House of Parliament, in pursuance of a resolution passed by that House, held a secret session, it should not be lawful for any person in any newspaper, periodical, circular, or other printed publication, or in any public speech, to publish any report of, or to purport to describe, or to refer to, the proceedings at such session, except such report thereof as might be officially communicated through the Official Press Bureau."

That is to say, the necessity for making this regulation arose on account of the freedom of publication of speeches enjoyed by Members of Parliament. Unless this was the assumption, there is no meaning in prohibiting them from publishing reports of the proceedings of the House. Therefore, my submission is that if we once concede the principle that Members of this House have full freedom from molestation of every sort when they speak their mind in this House, it incidentally follows that such proceedings can be published outside in the public press, provided the report is a faithful one, and, in the case of a *verbatim* report, there is, of course, no risk involved in keeping back anything which the public may desire to know with respect to that speech. Therefore, I would submit that a *prima facie* case has been made out on these points that there is freedom of speech, as is admitted by the Honourable the Leader of the House. It is admitted by the Leader of the House also that this speech has been taken notice of by the United Provinces Government as I read from the copy of the order passed by the United Provinces Government quoted by me in my earlier speech. Therefore, my submission is that it has become incumbent to discuss the nature of the privilege and the limitations of that privilege. That can only be done if you are pleased to go into the question of this breach of privilege. There has been a breach of privilege no doubt. We have to see how far the privilege extends and what are the limitations. For that, of course, by means merely of raising these points of order, that question cannot be gone into. The question still remains about the extent of the privilege. You, Sir, are the custodian of the dignity and privileges of the House, and I would submit that a *prima facie* case has been made out on the point of privilege and the motion should be allowed to take its course of full discussion so that everybody may be enlightened on the point. May I proceed to discuss the other points raised by the Honourable the Law Member?

**Mr. President** (The Honourable Sir Abdur Rahim) : The Chair thinks the order is with reference to the article—not the speech itself?

**Sardar Sant Singh**: If you, Sir, refer to the speech, you will be pleased to observe that it really is in respect thereof.

**Mr. President** (The Honourable Sir Abdur Rahim): There is the article also?

**The Honourable Sir Nripendra Sircar**: Yes.

**Sardar Sant Singh**: I deny it. My friend probably has not taken care to get it translated; otherwise, as I am informed by my friend, Pandit Krishna Kant Malaviya, .....

**The Honourable Sir Nripendra Sircar**: Why should I get a translation? I can read that very well.

**Sardar Sant Singh**: Then, why does the Honourable Member hesitate to show that to the House. The order of the United Provinces Government contains the objectionable passages and they accompany this order. The objectionable passages are in the speech itself, not in the portion pointed out by the Honourable the Leader of the House. The passages are there along with this order.

Now, Sir, may I proceed to answer the other points raised by the Honourable the Law Member against this motion?

He said by referring to page 98 that when a complaint is made of a newspaper, the newspaper itself must be produced in order that the paragraph complained of might be read. Now my submission is that the newspaper itself being in the House, it is immaterial whether I produce the same or the Honourable the Law Member produces the newspaper. It would make no difference. The House will be seized of the contents of the newspaper. Apart from this, the order complained against is the order of the United Provinces Government and that order is here and I have read that order for the benefit of the Honourable Members. Then, the Honourable the Leader of the House conceded the proposition that the mere publication of the speech as delivered in this House would not bring it within the breach of privilege. As a matter of fact, I have tried to point out.....

**The Honourable Sir Nripendra Sircar**: I made no such admission. I maintained to the contrary.

**Sardar Sant Singh**: What I mean to say is that when the Honourable Member raised a third objection to the motion being admitted, I understood him to say that it was not the mere text of the speech that had been objected to, but there had been certain passages in the speech extolling the terrorists and some comment upon it.....

**Mr. President** (The Honourable Sir Abdur Rahim): He objected to the publication in the newspaper being considered privileged. According to the rules, what is privileged is the speech or the publication of it in the official report.

**Sardar Sant Singh**: According to the rules, freedom of speech is allowed to this House. According to the rules, it is made obligatory upon the

Secretary of the Assembly to publish a *verbatim* report of the speeches delivered and of the proceedings of the House. My line of argument is that it naturally follows that every newspaper has a right to take up the officially authorized publication of speeches and print any speeches. No action can be taken against the newspaper publishing it.

**Mr. President** (The Honourable Sir Abdur Rahim): That is denied.

**Sardar Sant Singh**: I am submitting that this is my line of argument. The Honourable the Leader of the House has quoted no case which lays down any rule against this view.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member will perhaps find that in May's Parliamentary Practice.

**Sardar Sant Singh**: There is none in May's book.

**The Honourable Sir Nripendra Sircar**: I read that out.

**Sardar Sant Singh**: I already replied to that. The Honourable Member alluded to Lord Abingdon's case and Mr. Creevey's case, and I commented upon them as inapplicable to the facts now before the House. Then, the Honourable the Leader of the House took shelter behind rule 6 of the Indian Legislative Rules. Rule 6 says:

"On other days no business other than Government business shall be transacted except with the consent of the Governor General in Council."

He also fortified himself by referring to rule 24-A which says:

"No discussion of a matter of general public interest shall take place otherwise than on a Resolution moved in accordance with the rules governing the moving of Resolutions except with the consent of the President and of the Member of the Government to whose department the motion relates."

To these two objections I make the following reply. The first is that this motion is not a motion of business. It is not a business as a matter of fact. It has been amply laid down at pages 262 to 264 of May's Parliamentary Practice that a motion relating to the privilege of the House takes precedence over all other business.

**The Honourable Sir Nripendra Sircar**: It is a business and it takes precedence over all other business.

**Sardar Sant Singh**: May's Parliamentary Practice says:

"The proceedings of the House may be interrupted at any moment save during the progress of a division by a motion based on a matter of privilege, when a matter has recently arisen which directly concerns the privileges of the House; and in that case the House will entertain the motion forthwith."

Rule 6 has absolutely no application; nor has rule 24-A. Rule 24-A deals with motions of general public interest. This is not a motion relating to general public interest, but it is a motion relating to the privileges of the Members of the House. That is the distinction between this motion and motions contemplated by rule 6 and rule 24-A. There

[Sardar Sant Singh.]

is no provision in the rules as to how the motions for the privileges of the House ought to be taken into consideration. This is a power inherent in the House itself, and you being the custodian of the privileges of the House, I respectfully appeal to you, Sir, that, having this precedent before us, you may be pleased to rule this motion in order.

**Pandit Govind Ballabh Pant** (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, I do not intend to deal with all the objections that have been raised by the Honourable the Law Member. But there are one or two points which I have more than once thought of bringing to the notice of the Chair, and I find that this is a suitable opportunity for that and I wish to avail myself of it. The motion has been resisted by the Honourable the Law Member on two grounds. He thinks that this is not the proper method of raising the question, even though there has been a breach of privilege. Then, on the substantive question whether there has been a breach of privilege,.....

**Mr. President** (The Honourable Sir Abdur Rahim): Whether there is a *primâ facie* case.

**Pandit Govind Ballabh Pant**: He thinks there is not even a *primâ facie* case for holding that there has been any breach of privilege as there is no privilege whatsoever involved in the matter. Now, the Honourable the Law Member has referred to Rule 24-A and has said that questions of general public importance can be discussed only by means of a Resolution.

**Mr. President** (The Honourable Sir Abdur Rahim): You say that does not apply.

**Pandit Govind Ballabh Pant**: Yes, Sir, I submit this question has taken rather a very ironical course in this House. Firstly, there was a motion which was ruled out by the Governor General; secondly, there was a motion for the adjournment of the House which was again ruled out. Thirdly, there is now a motion on the ground of breach of privilege, and we are told now that the proper method would be to table a Resolution and not to make a motion in the manner in which the Honourable Member has tabled this question and has raised it today. My fear is that if a Resolution were tabled, and as it would necessarily, from the nature of the case, be confined to this particular instance of one individual case, the recommendation would be that "this House recommends that the Governor General in Council should cancel the order imposing a penalty on the *Abhyudaya*" it would be ruled out on the ground that it is not a question of general public interest. It may be a question of public interest, but as it affects only one individual, as such it is not a matter of general public interest. I believe I am not far wrong in thinking that questions affecting individuals, howsoever important they may be, could not by themselves form the subject matter of a Resolution. But, Sir, I am glad that the Honourable the Law Member has not restricted himself to quotations from May's Parliamentary Practice alone. He has

considered the rules contained in our own Manual as being relevant for the purpose of disposing of matters of this sort. It is my feeling that there is a facile tendency of placing too much of implicit confidence on May's Book and of taking important decisions on isolated sentences quoted from May irrespective of the text of our own rules. The other day, the Honourable the Law Member referred you to a sentence from May where it is laid down that the question of privilege cannot be raised in the form or by means of a motion for adjournment. I have before me the Manual of Procedure of the public Business in the House of Commons, and here it is laid down.....

**The Honourable Sir Nripendra Sircar:** I wish my Honourable friend had confined himself to meeting the point of order. I have no objection to his making a general speech and I do not want to stand in his way, but I only claim the right of reply. I never approached the question from this point of view. I simply put forward my objection in bar, but if the Honourable Member raises new points, I have no chance of meeting them except by way of another reply.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member should perhaps confine himself to the points raised.

**Pandit Govind Ballabh Pant:** What I am submitting is that, under Rule 58 of this Manual of Business of the House of Commons, it is laid down distinctly that in the House of Commons the question of privilege cannot be raised by means of motions of adjournment.

**Mr. President** (The Honourable Sir Abdur Rahim): That is not the Standing Order.

**Pandit Govind Ballabh Pant:** I am referring to the rules contained in the Manual.

**Mr. President** (The Honourable Sir Abdur Rahim): That was the Manual published by Sir Courtney Ilbert which contains not only the Standing Orders, but also what is the practice of the House.

**Pandit Govind Ballabh Pant:** It is an authoritative manual issued by the Speaker of the House. We are on the horns of a dilemma. On the one hand we are told that because this is the practice in the House of Commons that the question of privilege cannot be raised in the form of adjournment motions, therefore the question which arises out of a breach of privilege cannot be the subject of a motion for adjournment.

**Mr. President** (The Honourable Sir Abdur Rahim): That never troubles the Chair. What the Chair wants to know is this. What is the form in which a question like this can be discussed. The Chair also wants to know whether there is a *prima facie* case made out in this instance.

**Pandit Govind Ballabh Pant:** Rule 45 of the House of Commons Procedure Rules lays down that a question of privilege which arises suddenly can be raised at any time in the course of the day in the midst of the business; but where it does not arise suddenly, then it takes precedence over the business tabled for the day.



**Mr. President** (The Honourable Sir Abdur Rahim): Will that meet the difficulty in this connection? Does not the question of privilege seem to connote that the House has some power to deal with the matter? As a matter of fact, the British Parliament, as the Honourable Member is aware, is called the High Court of Parliament and they have certain powers of preventing a breach of privilege and punishing a breach of privilege. This power the Parliament has derived from long usage in the history of Parliament. Have we got any such power, or are there rules and Standing Orders governing the question of privilege? There are two meanings to the word "privilege", the one is that which can be pleaded as a bar to any proceedings in any Court of law. The other is, the House itself can take cognisance of the matter and deal with it under its own powers. Supposing this House has not got any power like that, then, in what sense does the question of privilege arise. In what way does this House have the power to deal with a breach of privilege?

**Pandit Govind Ballabh Pant:** There is power inherent in the House. As to the power of the House in this matter, it is just on a par with our power in other matters. I submit that it must be open to the House to raise the question of privilege by means of a motion of this type. That is a question of form and I would request the Honourable the President to rule that the motion is in order so far as its form is concerned. Now comes the second question whether there is or is not the question of privilege involved in the matter. And, thirdly, as it has been observed by you, whether we have any power to deal with a question of this type. First of all, I should like to define, as I conceive it, the clear and precise content of the motion or of the question that is involved. I think the question that is in issue is this, whether the press in this country has or has not the privilege of reporting *in extenso* the proceedings of this House, and whether it can do so without being molested by the executive, for here the security has been imposed and demanded by the executive Government. I am not concerned here with the proceedings of Courts relating to libel nor with the invasion of the private rights of citizens. The question is simply this . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): Is it an order of the Magistrate?

**Pandit Govind Ballabh Pant:** No, it is an order of the Local Government. The Magistrate has nothing to do with it. The Local Government, as a branch of the executive, demands security from a press for publishing a report, let us assume for the moment, *in extenso* of a speech delivered by a Member on the floor of this House. There may be a number of charges included in that order. If this particular item were not there relating to the speech delivered by the Honourable Member, I would concede at once that the question of privilege would not arise. But when it relates to and arises out of a speech delivered by an Honourable Member on the floor of this House, I submit that it is a privilege of this House and it is a privilege of the Honourable Members that their speeches may be reported by the press outside without being subjected to any penalty, molestation or obstruction by the executive Government of the day. The Government ordinarily is a part of, and subordinate to, the Legislature. I am not concerned, as I submitted, with the rights of individuals, nor am I concerned with the precedents of other countries.

**Mr. President** (The Honourable Sir Abdur Rahim): The rule regarding freedom of debate does not go so far as that.

**Pandit Govind Ballabh Pant:** My submission is that it is a corollary to the right of freedom of speech that there should be freedom of publication.

**Mr. President** (The Honourable Sir Abdur Rahim): Freedom of speech is contained only in section 67 of the Government of India Act; there is no other rule.

**Pandit Govind Ballabh Pant:** There is no other express rule. And I submit that freedom of speech covers and carries with it by implication the right of publication of speech. Now, Sir, I would just invite your attention to the anomaly which would arise if such an unrestricted right of faithful reproduction or of a fair presentation of the proceedings of this House were not conceded to be, by implication, guaranteed by this rule.

**Mr. President** (The Honourable Sir Abdur Rahim): This is a reproduction of the speech delivered in this House?

**Pandit Govind Ballabh Pant:** Yes. Now, I submit, there is not a single instance in which Parliament has penalised a person for reporting a speech. I am speaking of the recent times. I am not speaking of the days when secrecy was the rule of Parliament: that was a different age then. But the important point is this. The duty is imposed by the law itself on the executive Government to make arrangements for the reporting of speeches and the duty is imposed on the Secretary of this House as a public functionary to publish the speeches that are delivered here, and to give a correct report of the proceedings of this House for the enlightenment, guidance and information of the public. Now, to what anomaly would it lead if, on the one hand, the duty were imposed on the Secretary of the Legislature to publish these reports, and a paper which copied out the report issued by the Secretary were hauled up or punished for having published a speech from his report? That, I submit, is an untenable position; it is indefensible. By the very nature of the case the right is guaranteed to every individual printer to publish the proceedings of this House.

**The Honourable Sir Henry Craik** (Home Member): No.

**Pandit Govind Ballabh Pant:** I am submitting my views. I was just referring you to something which is in this book on the procedure in the House of Commons by Redlich, Volume II, page 50:

"In consequence of this statement, the House appointed a select committee, the report of which led to solemn resolutions that the power of publishing parliamentary reports, votes and proceedings was an essential incident to the constitutional functions of the House."

**Mr. President** (The Honourable Sir Abdur Rahim): It is not an official publication?

**Pandit Govind Ballabh Pant:** It is not. They have no official publication. The *Hansard* is an un-official publication. It is not official in the strict sense as the House of Commons or the Government are not in any way answerable to anything which appears there.

**Mr. President** (The Honourable Sir Abdur Rahim): Is not that regarded as an official report?

**Pandit Govind Ballabh Pant:** It is regarded as an official report just as if you gave me a licence to report the proceedings of this House. Subject to your approval, my publication would be correct.

**Mr. President** (The Honourable Sir Abdur Rahim): There is no other official report?

**Pandit Govind Ballabh Pant:** No, there is no other report. My submission is this, that wherever there is a democratic institution, there privileges grow and conventions develop, but when the executive have such extraordinary powers as they possess in this country which are obnoxious to the elementary notions of democratic government, if they are allowed to control and check the publication even of the speeches delivered in this House, then the very fundamentals of democratic Government would be sapped; the very foundations would be turned upside down. So there are certain privileges which must be assumed to be implicit in the constitution itself, to be inherent in the very nature of things. I submit that, situated as we are . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The *Hansard* is the official report of Parliament?

**Pandit Govind Ballabh Pant:** It is called the official report. *Hansard* is published by a private company which gets a subsidy from Government.

**Mr. President** (The Honourable Sir Abdur Rahim): It is treated as an official report?

**Pandit Govind Ballabh Pant:** The report is official in the sense that its text is accepted, but it is not issued by the Government of the day or under their auspices.

**The Honourable Sir Henry Craik:** I think it is official.

**Pandit Govind Ballabh Pant:** I will leave it to the Honourable the Law Member. It is called official in the sense that *prima facie* it must be assumed to be correct. I submit that the question before you is not whether the privilege is absolute or not, but whether this is or this is not a case in which *prima facie* you must proceed with the further consideration of the subject. At this stage, we are concerned only with this much, whether a *prima facie* case has been established—and I submit, Sir, with all earnestness, that it involves vital questions, questions of very great importance, and it would be very unfortunate indeed if you were to rule out that it is such a wild and reckless motion that it does not deserve any consideration whatsoever—that you are satisfied fully that there is not the least possibility of anybody holding that there is any question of privilege. That is all that you are required to hold at this stage. So I submit that the motion is in order, and it may very kindly be accepted.

**Mr. M. A. Jinnah** (Bombay City: Muhammadan Urban): Sir, the matter is of such great importance that I would like to draw your attention to one or two points. The first question that the Honourable the Law Member raised was the question of delay. I really think that you will not accede

to that argument, because, if there was any delay, it was a delay not due to negligence on the part of the Honourable Member who has moved this motion; he was pursuing his remedy. In the first instance, he came forward and brought this motion: it did not succeed; in the second instance, it does not succeed; and he has brought it in the course of the last two days. The delay means what? It means really that the party has been guilty of very great negligence. On the contrary, the Honourable Member has been pursuing his redress and remedy most actively. Therefore, I submit that the question of a day or two ought not to weigh with you at all in a matter of this kind. Then, the second question that arises is this. *Prima facie* it appears from the order of the Government of the United Provinces that this security is demanded from this newspaper on the ground that it published a speech of the Honourable Member made on the floor of this House. That is the *prima facie* justification for the demand of the security. If that is so, let us examine now whether there is a breach of privilege. It cannot be denied that Honourable Members of this House have privilege to make a speech with the utmost freedom, to use any language they like, subject to your orders . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): And the rules and Standing Orders.

**Mr. M. A. Jinnah**: Subject to that, we have complete freedom to make any speech that we like, express any opinion that we like; and we are not liable to any action outside by any Court, civil or criminal. I think that that will be conceded. Now, let us take this instance: suppose the United Provinces Government, or, for the matter of that, this highest and mightiest Government of India were displeased with my speech on the floor of this House, and supposing they pass some executive order against me under the Criminal Law Amendment Act, which is subject to no judicial examination, and supposing they stated the reason there that this action was taken against me by the Government of India on the ground that I made a seditious speech on the floor of this House. If that reason is given, where is my remedy? Not in a Court of law. It is an executive order. Where can I go? To whom shall I appeal? I say, this House (*Opposition Cries of "Hear, hear"*) . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): Suppose the Government take action on the basis of any law?

**Mr. M. A. Jinnah**: I say I have no remedy. It is an executive order. If it was a case of my being prosecuted in a criminal Court, I would certainly say I was privileged, and the Court had no jurisdiction to try my case—that the Government of India Act lays that down. If I was pursued in a civil action for damages against me, because I had libelled somebody, my defence will be "Privilege: Government of India Act". Now, if the Government of India make an order against me—an executive order—that because I happened to make a speech which was undoubtedly seditious—no question about that, I admit it is seditious,—then I have no remedy in any Court of law. Am I not then entitled to come to this House and say that we must proceed to discuss this question whether the Government have not done something which no Court of law can do? It is a breach of my privilege—I have a right to make a speech, and I have a right to have it published: that cannot be disputed . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Chair does not know that it is not disputed.

**Mr. M. A. Jinnah:** No, Sir; I have every right, subject to this, that it is a fair and faithful publication. I am talking of a Court of law. In a Court of law, I cannot be held liable, provided I get a fair and faithful report of my speech published . . . .

**The Honourable Sir Nripendra Sircar:** My Honourable friend may be right, but it was not conceded: I shall maintain the contrary . . . .

**Mr. M. A. Jinnah:** I do not quite follow . . . .

**The Honourable Sir Nripendra Sircar:** That there can be no action in a Court.

**Mr. M. A. Jinnah:** If it is a fair and faithful report?

**Mr. President** (The Honourable Sir Abdur Rahim): He disputes that.

**Mr. M. A. Jinnah:** Here is the authority. I am talking of the general principle of law: I am not talking of our Statute for the moment. The general principle of law, which is as old as the hills, so far as the English law is concerned, is that nobody is liable, provided the report is fair and faithful. Here it is laid down in May's Parliamentary Practice at pages 108-109 . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): Does the Honourable Member mean Wason's case?

**Mr. M. A. Jinnah:** Yes, Sir:

"The Lord Chief Justice of England, in a more recent case, further laid it down, that 'if a member publishes his own speech, reflecting upon the character of another person, and omits to publish the rest of the debate, the publication would not be fair and so would not be privileged', but that a fair and faithful report of the whole debate would not be actionable."

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

**Mr. M. A. Jinnah:** Let us go step by step, Sir. I say, first of all, supposing a newspaper published the proceedings of the debate and, in publishing the proceedings of the debate, there was that objectionable speech also. That is a fair and faithful publication of the whole proceedings: that would not be actionable.

**The Honourable Sir Henry Craik:** Against a newspaper it would be actionable.

**Mr. M. A. Jinnah:** But we are talking of the newspaper: it is the newspaper that is now here—not the Honourable Member. If the Honourable Member was here, then there is no action: it is clear as daylight that the Honourable Member has the privilege: that cannot be questioned. If it was the Honourable Member who was proceeded against by anybody, then it would be a clear breach of privilege. That question would be quite

a simple one. But the question now before us is more difficult. I want to be quite fair. I do not want in any way to represent things which are not correct. As I say, the question here becomes more difficult, because we have a different entity: it is the newspaper; and the question is this: it is very simple if I may put it in a very few words—I do not want to take up too much time—a newspaper no doubt is open to action against it if it is found that it has published something which is offensive according to law—either civil or criminal. But if it was a Court of law, it would be open according to the rules to plead that it is the privilege of a Member to have his speech published—that it is the privilege of the newspaper to have the proceedings published; and so long as they are true, fair and faithful, it is not liable to any action. Now, is there no remedy—there is no remedy as far as I can see—against an executive order? Is that question now to be decided by this House or not? I say that the only remedy open to us is that we must at least lay down some rule—surely the executive authorities must be governed by some rule, by some principle. Is there to be no rule, no principle for the executive authority? Are we not entitled, therefore, to say that while, with regard to the normal position, even the highest tribunal in the land has to observe certain principles upon which they have to act, the executive has no principle to act upon? . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): What are those principles?

**Mr. M. A. Jinnah:** The principle is this: freedom of speech: this is the answer for you to consider, that the freedom of speech gives me a right to publish it, and that I am not punishable—that is the question we have to decide that the executive, wherever they are, have to observe this rule: that once I have the privilege of freedom of speech, it gives me as a consequential privilege, the privilege of publishing it. . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member says that whatever action a Court may take is a different matter; but if the executive authority takes any action, this House's privilege is affected, and this House can take action?

**Mr. M. A. Jinnah:** Yes, Sir; that is the whole of my argument; and I say, therefore, this House must discuss and express its opinion—it is for the Honourable Members who represent the Government of India to observe it or not. . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): How does the Honourable Member express that opinion?

**Mr. M. A. Jinnah:** This way, Sir. The same rules must be followed as you would find with regard to a Member who has a right to publish his speech. I have a right to publish my speech. If you give me the privilege to stand here and make a speech which I consider are my honest, independent, fearless views, why am I not, as a corollary, entitled to publish it? Of course, a true and faithful speech, and not a different one,—why am I not entitled to publish that and request my friends who are just above me to publish it?

**An Honourable Member:** The Fourth Estate?

**Mr. M. A. Jinnah:** Why am I not entitled to publish it?

**The Honourable Sir Henry Craik:** The Statute lays down that you cannot.

**Mr. M. A. Jinnah:** Where is the Statute?

**The Honourable Sir Henry Craik:** Section 67 (7) of the Government of India Act.

**Mr. M. A. Jinnah:** I have read that Statute and it clearly says this :

“(7) Subject to the rules and standing orders affecting the Chamber there shall be freedom of speech in both Chambers of the Indian Legislature. No person shall be liable to any proceedings in any Court by reason of his speech or vote in either Chamber, or by reason of anything contained in any official report of the proceedings of either Chamber.”

This is not exhaustive. This merely gives direction of all kinds, firstly, it is a protection to the person who makes a speech: and, secondly, it is a protection to those who, under the official orders, have to publish the official report, but that does not exhaust the whole thing. This does not mean that every person, if he gets his speech published, is liable to action. My point is this. If you give me the freedom of speech, I have the freedom to publish it, otherwise the privilege is useless (“Hear, hear” from Opposition Benches).

**Major Nawab Ahmad Nawaz Khan** (Nominated Non-Official): May I ask one question, Sir,

**Several Honourable Members from Opposition Benches:** Order, order.

**Mr. M. A. Jinnah:** Therefore, I say, Sir, with great respect, that this is not exhaustive, and that is the very reason why I am anxious in a matter of this importance.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member has got a right to publish it?

**Mr. M. A. Jinnah:** Yes.

**Mr. President** (The Honourable Sir Abdur Rahim): What authority has the Honourable Member got for it? Has he any authority for it, or he is merely proceeding on a general principle?

**Mr. M. A. Jinnah:** Sir, to tell you quite frankly, I really had no intention to get up and speak on this subject, because I only learnt very late that a question of this kind was coming up. Till this morning, or, for the matter of that, until luncheon time, I had not applied my mind to this. The matter is so important that it requires very careful consideration, and, therefore, I cannot answer . . .

**Mr. President** (The Honourable Sir Abdur Rahim): If there is a *prima facie* case, then the Chair can fix a date.

**Mr. M. A. Jinnah:** There is certainly a *prima facie* case; there is not the least doubt about it, because, Sir, if you will read the order you will see. . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Chair says this, subject to any other objection taken by the Honourable the Leader of the House, for instance, that it cannot be brought on on an official day.

**Mr. M. A. Jinnah:** There again, Sir, I say with due respect, the Honourable Member is overstating his case, for, Sir, under our rules, the Governor General no doubt lays down certain days for cur business, but if you follow the Parliamentary practice in regard to a motion of this character, the moment such a motion is admitted, it follows that all our normal business must be suspended. It takes precedence over everything else, and the Government have, therefore, to find some day. If the Governor General does not give us any more days, that does not absolve the Government, the moment the motion is admitted, from giving some day. . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): It is not a question of admission of this motion. The Chair has allowed it, because it was not sure what would be the position. It is a very important question, and so the Chair just allowed it to be argued . . . . .

**Mr. M. A. Jinnah:** Supposing we have to discuss the merits of this motion, then some day must be given, and so the argument that there is no other day available will not do.

**Mr. President** (The Honourable Sir Abdur Rahim): The Chair does not think it made itself clear. The objection is that a motion to consider the question of privilege cannot be brought in on a notice like this . . . . .

**Mr. M. A. Jinnah:** On an adjournment motion.

**Mr. President** (The Honourable Sir Abdur Rahim): As regards the adjournment motion, the Chair has, as a matter of fact, given its ruling that the matter cannot be brought up on an adjournment motion, but the Chair would be prepared to reconsider that. The Chair decided the previous motion on another ground as well, as it said in the very beginning, that it was not in its opinion urgent according to the rules.

**Mr. M. A. Jinnah:** You decided on the ground first, there was a delay, and, secondly, there was no kind of breach of privilege.

**Mr. President** (The Honourable Sir Abdur Rahim): The question of privilege could not be brought on an adjournment motion.

**Mr. M. A. Jinnah:** The subject-matter of privilege.

**Mr. President** (The Honourable Sir Abdur Rahim): What was passing in the Chair's mind was the question of breach of privilege. It was not a question of adjourning the business and censuring the Government. The House might take action to remedy such a breach of privilege.



**Mr. M. A. Jinnah:** Therefore, Sir, the only procedure open to us is this, that a day should be fixed. The moment the day is fixed, then, on that day, this question should be put down as to what steps, if any, should be taken.

**Mr. President** (The Honourable Sir Abdur Rahim): The reason why the Chair has allowed this question to be raised is to find out what would be the proper procedure. The Chair could, of course, having considered it itself, have disallowed it on the ground that it could not be brought on an official day, but the Chair wanted to consider the question whether the House could follow the Parliamentary practice in this respect or not, or whether the House is debarred by its rules and Standing Orders from taking up such a question on an official day. The Chair wanted to consider that. Of course, much time of the House has already been taken up, but it could not be helped.

**Mr. M. A. Jinnah:** My only reply is this, Sir. There is nothing in our rules, and, therefore, we have to fall back upon the Parliamentary procedure as far as possible. . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The contention of the Honourable the Leader of the House is that our rules prevent any other matter being discussed on an official day without the consent of the Governor-General in Council. . . .

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): Any other business.

**Mr. President** (The Honourable Sir Abdur Rahim): The Chair takes it this is business.

**Sir Muhammad Yakub:** There is difference between business on the agenda and matter.

**Mr. President** (The Honourable Sir Abdur Rahim): The Chair could have disallowed the motion on the ground. . . .

**Mr. M. A. Jinnah:** This is neither official nor non-official business. This is the business of the House ("Hear, hear" from Opposition Benches), and it must take precedence over everything else, including the Government business, because it is the business of the House. I think the Honourable the Law Member himself is involved in this as much as anybody else, because it is his privilege also. It might really come to this, that some action might be taken against him for making a speech here. (Laughter.)

**The Honourable Sir Nripendra Sircar:** I would rather have that than waste two days of time of this House; I would rather welcome action against me than waste the time of Members of this House.

**Mr. President** (The Honourable Sir Abdur Rahim): If the Chair holds that this rule does really debar this motion being brought up, the Chair will really be itself responsible for the time that has been taken up. The Chair was doubtful, and, therefore, it wanted the question to be discussed.

**Mr. M. A. Jinnah:** May's Parliamentary Practice says:

"Proceedings of the House may be interrupted at any moment, say, during the progress of a division, by motion based on a matter of privilege when the matter has recently arisen which directly concerns the privileges of the House."

It is business,—in one sense it is business. I cannot say it is not business, because everything we are doing here is business. When you look at the Manual, it really means a particular kind of business, that is, such work or such matters as the Government may bring on on official days or such work or matters as the non-officials may bring on on non-official days which are allotted by the Governor General. Therefore, this is business, but it is not business which is intended by these rules; it is outside these rules; it is not covered by these rules. If you have no cut and dried rules which deal with a matter of this character, you will have to fall back upon the Parliamentary practice,—the Parliamentary practice which this House follows and which you and your predecessors followed in giving their rulings. You are not tied down by these rules. Government have got to give some day. Either they put it on an official day, or if they like, they can appeal to the Governor General to appoint a special day. Otherwise, what will be the consequence? In that case, you will never have this sort of matter discussed at any time in this Assembly.

**The Honourable Sir Henry Craik:** By Resolution.

**Mr. M. A. Jinnah:** This is not an ordinary matter; this is a matter which at once gets precedence; it even goes to this length that even when you are debating, even when you go on debating an important measure, even then it can be interrupted except the actual division. The whole principle is different. You cannot give notice of a Resolution which has to be balloted for. It is not intended that a business of this kind, a subject of this character should be dealt with by that way. Therefore, it must take precedence over everything. I do ask the Honourable Member really that we must try and maintain the dignity of the House. I am speaking earnestly, not because what the result may be ultimately, but I do think that this is a very serious matter, a matter of great importance, of great importance to the Members themselves as well as the press in the country. Therefore, I do submit that this matter ought to be allowed to be discussed and that the Manual does not really deal with this matter. You are free to follow the Parliamentary practice and say that some day must be fixed. If the Government cannot fix a day, very well, it is their responsibility. (Applause.)

**Mr. Bhulabhai J. Desai** (Bombay Northern Division: Non-Muhammadan Rural): Sir, it would be very unfortunate if an issue of this importance were to be determined on the ground that the Government cannot find a day for its discussion. That appears to be the nature of the difficulty that is sought to be presented to the House in dealing with this matter. I can assure you and the House that I have no desire to travel over the ground that has been covered, but I feel it my duty to examine the three points which emerge from the questions put by you from the Chair as well as from the speeches of my Honourable friends. In substance, this motion before the House is a complaint brought before the House that there has been an action amounting to breach of

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its privilege, and the question before the House is whether or not the complaint should be dealt with. I wish all other considerations for the moment to be set aside before approaching this issue in the proper way in which it should be approached. The motion amounts to this that by an executive order there has been a breach of privilege of the House, and I will deal with the matter in the manner in which by interlocutory questions, the Chair was putting it to the Members who have already taken part in this debate. The first and the foremost point to be remembered is that, so far as this House is concerned, it is of recent origin, and, therefore, you cannot find a 200-year practice as you would find with reference to the House of Commons in dealing with matters of this kind. Sometimes the practice of the House of Commons is cited when it suits certain objections, and sometimes it is said we must now go back to our rules. That, I submit, is not a method which is to be encouraged except to the extent that it is found entirely obligatory on the Chair.

**Mr. President** (The Honourable Sir Abdur Rahim): If there is anything in the rules which forbids following a certain Parliamentary practice, then it cannot be followed, but if there is not, and if the rules are silent, then the Parliamentary practice is followed, and what we want to find out is what is the right procedure.

**Mr. Bhulabhai J. Desai:** Therefore, the question before the House is whether there is anything—and I shall deal with the rules in a moment—whether there is anything in the rules which is inconsistent with the suggestion that is now being made by my Honourable friend, Mr. Jinnah, that it is a matter which falls entirely outside the contemplation of the rules as they stand, for the fact remains that there is nothing in these rules dealing with how matters of privilege are to be brought before the House for its discussion, for its determination and for its decision. If a *prima facie* case is made out, it is necessary to bear in mind how the matter would be dealt with by the House of Commons, what course it would have taken at that stage in the House of Commons. In the House of Commons, as my Honourable friend, the Leader of the House, read out page 471, it takes this course:

“A committee upon a matter of privilege may be appointed and nominated forthwith without notice.”

He afterwards said that this is not material. But it is extremely material in order that you may be able to see what is the course to be adopted. Therefore, the matters to be dealt with are two; the first is, how and to what extent it has precedence over the rest of the business of the House, as it is called “public business”. And I want you in that connection to read pages 264 and 471 together. Page 264 runs as follows:

“A privileged matter can also be brought forward without notice (*the next sentence is important*) before the commencement of public business and is considered immediately on the assumption that the matter is brought forward without delay and that its immediate consideration is essential to the dignity of the House.”

My Honourable friend quoted this in an entirely different context hoping that it had only value from his own point of view. He was pointing out and emphasising the word, "delay", but the real importance lies in the earlier and substantive part, namely, "A privileged matter may also be brought forward without notice before the commencement of *public business*". All the rules that he has relied on are rules of what may be described as "public business", in other words, public business emanating or initiated by Government, or public business (in a limited way) which is allowed to be initiated by the non-officials. The very terms of the practice lay down quite clearly that this matter is outside and above public business, in that it is a privilege of the House; so that, when it concerns the House, naturally everything else gives way to it. Therefore, the rules which are there have got no bearing, and I shall read the rules in the light of this statement of the practice of the House of Commons. There are two ways in which the matter is dealt with. It may arise out of something that occurs in the House. It may arise out of something that occurs outside the House, but when it occurs outside the House and does not primarily concern the House itself (as in the case of privileges of the House), it takes precedence over the business of the House, in the narrower sense of the adjournment of the House for the purpose of discussing matters of urgent public importance. Now, why does the other business of the House give way to that particular Resolution?

**Mr. President** (The Honourable Sir Abdur Rahim): That is provided for in the Rules.

**Mr. Bhulabhai J. Desai**: I know that. Here it is a question of the rights of the House itself. Whether the word "privilege" is used or whether the word "right" is used is a matter of little consequence. I submit that it would be proper to analyse even the term "privilege" as it has been discussed in relation to this particular motion, so that the importance of the matter may be appreciated. My first answer is that it would be very unfortunate and it would not also be right, if my submission is correct, if this matter is merely shelved or dismissed, because it is said that Government may or may not be able to find a day, but if my submission is right, it does not depend on their discretion to block the House to maintain its own dignity, because that is the ground on which it is put. I submit that its immediate consideration is essential to the dignity of the House, so that the matter cannot rest on the discretion of the Government to find a day or not. The matter rests entirely in the discretion of the House itself, subject, of course, to the ruling by the Chair whether the motion is otherwise in order. Now, the two issues here are whether there is a *prima facie* case for consideration by the Committee and whether or not a privilege is involved. If it is made to appear *prima facie* that a privilege of the House may possibly be involved then a committee must be appointed. Then the issues before that Committee would be two, firstly, whether or not there is a privilege of the House, which is involved in the matter at all, and, secondly, whether a breach of such a privilege has taken place by the particular action which is complained of. On that the Committee will report to the House, and the House will consider the issue and come to a decision whether there has been a breach of privilege. Then, you put it to my friend, Mr. Jinnah,

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that so far as this House is concerned, it has not yet developed by precedent or otherwise the power to constitute itself into a tribunal and to call before it at its bar persons guilty of the breach of such privilege, but I hope and trust that it will take a lesser time, having regard to the knowledge now gained of democratic institutions in the world, before such a power is assumed by this House. As to when it will do it, that is another matter. Whether this House is in the position of punishing individuals or parties who are guilty of the breach of privilege is not a matter which should stand in the way of the consideration, first, whether the privilege which is claimed exists, and, if so, whether by the action in question that privilege has been broken. What the rule says is this:

"The Governor General, after considering the state of business of that Chamber, shall allot so many days as may, in his opinion, be possible compatibly with the public interests for the business of non-official members in that Chamber and may allot different days for the disposal of different classes of such business and on days so allotted for any particular class of business, business for that class shall have precedence. On other days no business other than Government business shall be transacted except with the consent of the Governor General in Council."

This rule, if it is read literally, comes to this that there is no day for the House to have this matter discussed at all. Either it is a day allotted for the discussion of non-official business or it is the monopoly of the other side of the House. Consistently with this rule, we say, all public business, as referred to in rule 6, has to give way to this paramount business, namely, the preservation of the dignity of the House and the consideration of a matter that affects its privileges. Then, Sir, rule 24A does not carry the matter any further:

"Save in so far as is otherwise provided by these rules or in any case in which a communication is to be made to the Governor General in Council under any provision of the Government of India Act or of these rules, no discussion of a matter of general public interest shall take place otherwise than on a Resolution moved in accordance with the rules, etc."

The argument is that this, being a matter of public interest, is barred by 24A, but a matter may have two phases. It may be a matter of public interest. It may also be of higher interest to the House itself. You cannot oust the subject of privilege of the House, because it also may be a matter of general public interest. In one sense, the privileges of the House are matters of public interest, but you cannot strain those words to oust a matter of the privilege of the House, because the privilege concerned or its breach, namely, the act concerned, either or both may be otherwise matters of general public interest. It is not as if only one side of the House is concerned in this affair. I hope and trust that that will not be the position and that cannot be the position of even the irresponsible Government sitting in this House. The argument used is that this is a matter of general public importance, and, therefore, can only be dealt with by a Resolution.

**Mr. President** (The Honourable Sir Abdur Rahim): If it is a question of privilege which concerns all sections of the House, then why not invoke 24A?

**Mr. Bhulabhai J. Desai:** What I am submitting is that this is not primarily a matter of general public interest. The confusion of thought arises in this way. The speech may or may not be of public interest. I mean the publication or the prevention of the publication may or may not be a matter of public interest. That has nothing to do with the issue.

**Mr. President** (The Honourable Sir Abdur Rahim): Motions for appointing Standing Committees and things like that all come within 24A?

**Mr. Bhulabhai J. Desai:** And, with great deference, I do not believe very much in objections of this kind which are largely indulged in really on the other side. I am more concerned with the substance.

**Mr. President** (The Honourable Sir Abdur Rahim): If it is a question of the privileges of the House, that is also a question for every section of the House. If that is so, then why not bring it under rule 24A?

**Mr. Bhulabhai J. Desai:** I say, it should be outside the matters of public business for which rules are expressly made.

**Mr. President** (The Honourable Sir Abdur Rahim): Why does the Honourable Member say 24A does not apply?

**Mr. Bhulabhai J. Desai:** Let me put it this way. I do not say that it may not be brought under 24A, but what I do say is that 24A should not be headed in bar of my first contention, I may have brought it up as a matter of Resolution, but it would not be the appropriate way.

**Mr. President** (The Honourable Sir Abdur Rahim): If there is a definite procedure, why should I assume. . . .

**Mr. Bhulabhai J. Desai:** I am giving the answer, because, if this is the definite procedure, it comes back to this that, in so far as the moving of Resolutions is concerned (on the hypothesis of which we are now working), I will first answer that by referring to sub-rule (3) to which my attention has been called. What is the hypothesis on which this matter has been argued? The first point is that the Government not only can but will block, if they can, any Resolution for the purpose.

**Mr. President** (The Honourable Sir Abdur Rahim): Must I assume that?

**Mr. Bhulabhai J. Desai:** There is a further objection that is taken apart from the technical objection. All the objections taken clearly show, to any man of common sense as I submit, that certainly a Resolution, if it were ever tabled in this matter, could only emanate from the non-official Members of this House.

I am reading 24A:

“No discussion of a matter of general public interest shall take place otherwise than on a resolution moved in accordance with the rules governing the moving of resolutions except with the consent of the President and of the Member of the Government to whose department the motion relates.”

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Again, if it were a matter entirely resting with you, it would be another proposition. So far as the Member of Government is concerned, we have heard what he has got to say. I must go further. In other words, what I am submitting is that if these rules really block or can successfully block the argument of a matter of this kind, you should, as I submit with great respect to you, rule that *this is a matter outside the rules*.

**Mr. President** (The Honourable Sir Abdur Rahim): The Chair would like to know whether the Honourable Member's position is that 24A does not apply.

**Mr. Bhulabhai J. Desai:** The Governor General may disallow any motion or part of a motion on the ground that it should not be moved, cannot be moved, without detriment to the public interest—this has already been done—or on the ground that it relates to a matter which is not primarily the concern of the Governor General in Council. Evidently they seem to think that it is the concern of this House to protect its dignity and not for the Governor General in Council to protect the dignity of the House. They are entitled to say that. But they are not concerned with that, it is not primarily their concern, I agree it is primarily our concern.

**Mr. President** (The Honourable Sir Abdur Rahim): So far as the Chair is concerned, it cannot, in interpreting the rule, proceed on any such assumption.

**Mr. Bhulabhai J. Desai:** As regards this particular matter, you have the fact that it has been disallowed. Therefore, the fact remains that given a second time, . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): That was on an adjournment motion.

**Mr. Bhulabhai J. Desai:** It was not disallowed on the ground that it was on an adjournment motion. . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): Supposing it had been brought up as a matter of a breach of privilege?

**Mr. Bhulabhai J. Desai:** What I am trying to submit to you is that he has disallowed it on a matter of substance; whether it was on a Resolution or on a motion for the adjournment of the House is immaterial. What I am submitting is, whether it forms the subject-matter of an adjournment motion or it forms the subject-matter of an ordinary motion, in either case it is disallowed on the ground that the discussion of the matter in whatever form it is brought up for discussion is contrary to the public interest or one which does not primarily concern the Governor General in Council.

**Mr. President** (The Honourable Sir Abdur Rahim): Supposing the form was that it was purely a question of the breach of privileges of this House, the question the Chair wants to put is, whether the Governor General could have disallowed it.

**Mr. Bhulabhai J. Desai:** Sir, I am not really asking you to have any assumption, because the matter is, in fact, disallowed, the reason is given, the reason being that it cannot be moved without detriment to the public interest; and also on the ground that it is not primarily the concern of the Governor General in Council; and, I submit, with respect, and within the letter of that rule, that it could still be said that, it being a matter of the privileges of this House, it is not primarily the concern of the Governor General in Council, that it is primarily the concern of the House, and, in that sense, within the rule. If it is put that way, he might be right, but what is the consequence of the possibility of his being right? The consequence of the possibility of his being right is that it being barred under all other rules, and the order of the Governor General barring it under this, there is no means of discussing the privilege of the House. If you argue that the two matters are substantially identical, . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): Then, in that case, the House will be asked to reverse the order of the Governor General in Council, if the Honourable Member argues it in that way?

**Mr. Bhulabhai J. Desai:** That, again, is an assumption. If it fell within 24A, then the House undoubtedly could go counter to the order of the Governor General, but it is precisely because it stands apart and outside the rules, that I have been arguing thus, and my submission is that, once you bring it within the rules, you are merely putting the House under conditions which, I submit, so far as privileges are concerned, it would not be right so to do. By an effort to bring it within the rules, you are also invoking the restrictions under sub-rule (3). I am not suggesting that this is done perversely or otherwise, but supposing, *bona fide* under the advice of a legal mind, the Governor General says "it is not primarily my business", then what are you doing? This is what you are doing. You are reading into the rule something to say that, on the one hand, it cannot be moved without detriment to the public interest, and, on the other hand, it cannot be moved on the ground that it relates to a matter which is not primarily the concern of the Governor General in Council, and, between the two, the result is that you cannot have the discussion of such a matter. I am giving an additional reason, Sir, for the purpose of holding that a privilege matter may be brought to notice before the commencement of public business. I say, if you make it part of the public business, and if you admit by stretching the point the possibility of bringing it within rule, you are then doing so under conditions which could not be consistent with the very nature of the case, that is to say, you may conceivably make discussions of a matter of privilege impossible; if it is thought and may be rightly thought that it is not a matter that primarily concerns the Governor General in Council, and, with all respect, if I may be allowed to say so, it is not a matter primarily the concern of the Governor General in Council. It does not affect them in the least whether this House has any privileges or not or whether it is broken or not. Therefore, my submission is that, so far as the rules are concerned, they should be treated as providing for what may be called public business to the extent to which provision was necessary both by way of permission as well as by way of restriction; but they do not exhaust the right of the House to



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discuss its own privileges as and when occasion arises and they stand outside, and, in some respects, above these rules. That is my submission in regard to the first point.

Coming to the next point—it has also been dealt with by my Honourable and learned friend, Mr. Jinnah, as well as by my Honourable friend, Mr. Govind Ballabh Pant, to a certain extent—  
 4 P.M. a few passages were read out by the Honourable the Leader of the House, and now it should be remembered that complaint having been brought before the House, what the House is now called upon to do is, whether or not this is a matter in which it will appoint a Committee in order to consider the two issues which I have indicated, namely, whether or not, as defined or claimed, the privilege exists, and whether, by the particular act, there has been a breach of privilege. On that, all that I have to make out, is, whether it is what may be described in the language of Lord Shaw as a stateable matter for investigation, and, from that point of view, I submit with all respect that it is not only a stateable matter for investigation, but it is a very important matter for investigation.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member will find the expression "*prima facie*" is also used.

**Mr. Bhulabhai J. Desai**: I am only trying to show that "*prima facie*" case means on the face of it, it is not to be thrown away.

**Mr. President** (The Honourable Sir Abdur Rahim): That is really the same thing.

**Mr. Bhulabhai J. Desai**: Only he puts it in a manner which perhaps expresses it a little more strongly so as to bring the importance of it to one's own mind. Sometimes the word "*prima facie*" depends on the person who looks at it, looks at the face of it, and, on the other hand, when you look at it the other way, it is something where you do not like the face of it. Similarly, you do not like the face of some of these motions. However, that is a matter of some regret. Therefore, the point really resolves itself into this. On that, Sir, there is one important matter to which I want to call the attention of the House. In 1932, a similar matter affecting the privilege of the House arose indirectly in this way. I do not wish to go into these debates at any length, I only wish to give the purport of them without taking much of the time of the House. Mr. Gaya Prasad Singh gave notice of a question:

"Will Government be pleased to state if, under any Ordinance or Rules made or orders issued by any executive authority, newspapers would be penalised for publishing reports or the proceedings of the House?"

An answer was given to that question, and, on that, a motion was made for adjournment of the House on the ground that the answer was unsatisfactory. The question appears on page 545, Volume I, dated 10th February, 1932, Legislative Assembly Debates. The matter came up before the House on a motion for adjournment and the proceedings relating to that motion appear at page 657, and, from a study of the debates, you will observe, Sir, that one of the most illuminating speeches made

on that occasion was by yourself. The Mover of the motion on that occasion quoted from where my Honourable friend, the Leader of the House, stopped at page 109 of May's Parliamentary Practice, as showing that it is a matter of the privilege of the House whether or not a newspaper should be penalised for a faithful publication of the report of a speech made in the House, and I see that Mr. Ranga Iyer who brought that motion quoted from page 109 of May's Parliamentary Practice (13th Edition); in fact, it is a continuation of the three cases which my Honourable friend read. At the top of page 109, we find this:

"The privilege which protects debates extends also to the reports and other proceedings in Parliament."

I read that only with a view to show,—because you were pleased to ask,—that authority can be quoted to make out a *prima facie* case for the existence of the privilege which is claimed. But the matter does not rest there. I submit that the House on that particular occasion treated it as a matter of privilege, and it was put in this way by Sir Abdur Rahim at page 661,—and I adopt this as a part of my argument:

"If the debates are not allowed to be published, then the position will be reduced to this. This House will be turned into a mere school debating society, as was mentioned by one Honourable Member not long ago. We are here not only to speak to the Government Benches opposite,"

—of course, they do not seem to bother much about it so that that would not be of much value,—

"but to speak to a wider audience, the public. This is our privilege, this is our right and this is our duty."

Therefore, Sir, it could not be put better than this to say that any penalisation by an executive order of a report of a speech in the House involves a breach of privilege, in the language of the Honourable Member who was then speaking to the House, for the purpose of the protection of the privileges of the House. And I only wish to add that I am merely adopting this as part of my argument, because I cannot put it any better. It is not because it is a question of quoting something against an author when he happens to be a Judge. I know sometimes it is a very inconvenient position. . . .

**Mr. President** (The Honourable Sir Abdur Rahim): Speaking for myself, I think the fewer the quotations like this that are made, the better. It is rather embarrassing to the Chair, and it is rather unfair to the other side who may not like to criticise any such speech.

**Mr. Bhulabhai J. Desai**: I will not do it. It is for that reason that I qualified it by saying that I adopted it as part of my argument. My submission is this, that, as I submitted on a previous occasion on a motion relating to the detention of Mr. Sarat Chandra Bose, who was then a Member of this House, the privileges of this House are not a matter to be merely dealt with as if, because they did not exist today, they would or should not exist at all, that they cannot grow or that they must be found within the four corners of section 67(7). Otherwise, if you accept the line of argument that is adopted, no privilege of this House would ever grow at all; say that there is no question that this

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House has dignity, any value or any representative character and that this House appeals and educates the larger public of this country. What is the importance of all the representative men who are here? I am referring to those who are representative. The representative character will be destroyed by a prohibition of the publication of their speeches, subject to an important safeguard as was pointed out sometime ago. This House has the right or privilege, on attention being called to it in any particular speech that it happens to have defamatory or seditious matter, to expunge it from the minutes of this House, and in this way the publication of such portions of the speech may be prohibited. If the Secretary of this House may, in a certain book published under its authority, publish the same speech, but that is not to be made available more widely either by translation or otherwise on another day, I want the House to see the very absurdity to which one is reduced. The history of the Parliament preventing the publication of its debates has taken an entirely different turn;—the Government sell this publication,—so that you really want to reduce it to a publication of this matter as a monopoly of Government. Elimination of all truly objectionable matter can be achieved by the rules in this way that all seditious or defamatory matter can be struck out. And, that being the privilege again of the House, it is the right of the House that these things should not be published. And, if once they are not published, I take it that *prima facie* a speech that is otherwise allowed to be published is a fit matter for constant, frequent and widest publication. And, if that is so, we submit that we have made out a *prima facie* case that there is a privilege of the House of which by the act alleged there may conceivably be a breach. Therefore, I submit that what we ask you to rule is that this matter so far as the time for its discussion is concerned falls outside rules 6 and 24A.

**Mr. President** (The Honourable Sir Abdur Rahim): Supposing a motion is moved like this complaining of breach of privilege and supposing the Governor General disallows it, has he got power to do so?

**Mr. Bhulabhai J. Desai**: I submit not; that is precisely the point. That is why I said that rule 24A should not be strained in this manner. Because, if it is strained, it is self-destructive so far as the discussion of the privileges of the House is concerned, because we may not be able to discuss it at all. Therefore, I submit, that it should not be allowed to be done. So far as the point of time is concerned, we submit that it should be proceeded with in the manner in which it would have been proceeded with in the House of Commons, namely, that the matter should be continued before the House and a committee of the House should be appointed after any discussion that may take place. As regards a *prima facie* case, we submit we have said enough to show that it is a matter which clearly requires investigation.

**The Honourable Sir Nripendra Sircar**: Sir, this is an executive action based on a Statute passed by this House; that is, an executive action which is taken under section 7 of the Press Emergency Act, XXIII of 1931. It is not an administrative action; it is not an executive action in the sense that it is not controlled by any Statute or by the High Court. The very Act provides that the party aggrieved may go up to the High Court. Sir, the jurisdiction of High Court is limited to finding out whether the writing directly or indirectly

promotes any of the objects mentioned in the section. Therefore, to say that there is no remedy and this is an executive action loses sight of the fact that this executive action is based on the Statutory power given to the executive by Legislature which Statutory power again is open to examination by the High Court in appeal.

**Sir Muhammad Yakub:** Sir, may I ask a simple question of the Honourable Member? Can the Honourable Member, against whose speech this action was taken, go up to the High Court and say that his privilege was violated, and, therefore, his case should be reviewed? Of course the editor or the manager of the press can go; we are not concerned with that. We are concerned with the Member whose privilege has been violated. Can a Member of this House go to the High Court and ask that his case should be reviewed?

**The Honourable Sir Nripendra Sircar:** I shall answer that question. The only person against whom the order has been issued can go, that is to say, whether he is the owner of the press or whoever he may be. But when he does go up to the High Court, the only question which will be discussed will be whether the words complained of are seditious or within that Statute or not. And, in this particular case, we need not discuss it, because, it is Pandit Krishna Kant Malaviya's press which has got it published, and there is not the slightest difficulty in his going up to the High Court if he wanted.

**Pandit Krishna Kant Malaviya:** Sir, may I know from the Honourable the Law Member if he is aware of the judgment of Sir Lawrence Jenkins in the famous *Conrade* case in which he held that the High Courts are powerless against the actions of the executive?

**The Honourable Sir Nripendra Sircar:** I do not know that that is a personal explanation. I shall take up the points shortly. I draw your attention once more to page 269. I submit, my Honourable friend, Mr. Jinnah, probably due to the fact that he did not attend to it before Lunch, and I do not know what happened after Lunch . . . . .

**Mr. M. A. Jinnah:** Sir, that is not fair; I do really expect the Honourable the Law Member to be fair. I was not able to answer your question, because I naturally looked at the matter here as far as the law is concerned. It is not that I did not follow other Honourable Members. The whole morning I have been listening to the speeches before I got up. Only that particular question I could not answer.

**The Honourable Sir Nripendra Sircar:** If I have been unfair to my Honourable friend, I withdraw my remarks. May I go on to page 269:

"As precedence is naturally desired by members, care has been taken, by rulings from the chair, not to extend that claim to any motion which does not strictly relate to an urgent matter of privilege, properly so called; and many motions, more or less affecting privilege, have been brought on in their turn, with other notices of motions."

The point which I am making and which is obvious is this. That unless it is a case of great urgency and unless the House is moved the next day you should proceed in the ordinary way by giving notice of a motion of your business. I evolve two points out of that as is obvious. This is:

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business, it is Sardar Sant Singh's business. It is a business which involves discussion on a matter of great public importance and interest to the general public, and does not merely affect the whole of this House.

The condition of inability to give notice has not been complied with. I read from May's Parliamentary Practice :

"Many motions, more less affecting privilege, have been brought on in their turn, with other notices of motions."

This shows that giving of proper notice is the usual procedure.

I will not repeat my argument. I pointed out this morning that it is not a question of there being a few days' delay, the way in which my Honourable friend, Mr. Jinnah, presented it. It is not a question of laches, it is not a question of limitation. The question is this; if you are following an extraordinary procedure, if you are doing something so extraordinary as to interrupt the ordinary course of business, then you must comply strictly with the rules which permit your bringing such a motion under certain conditions. I am relying on May for the purpose of showing that in no case has it been allowed where it has not been brought up the very next day. That is the point which I make.

Another point which I should like to dispose of at once would be the argument of both my Honourable friends with reference to rule 24-A. If I have understood my Honourable friend, Mr. Jinnah, correctly—he will kindly correct me if I am wrong—he said that this business is not Government business. It is not non-official business. It is the business of the House.

**Mr. M. A. Jinnah:** Is it not business within the meaning of the rules?

**The Honourable Sir Nripendra Sircar:** Quite so. Let us see what the rule says. I read only the last portion of rule 6 :

"No business other than Government business shall be transacted except with the consent of the Governor General in Council."

So long as it is not considered Government business, and it cannot be Government business, started as it is, on a motion by Sardar Sant Singh, the rule is mandatory "that no business other than Government business shall be transacted except with the consent of the Governor General in Council". My point is this: as this is not Government business, I need not discuss what business it is. Business surely it is. As May's Parliamentary practice points out, this business ought to have been brought on on a notice of motion except in the exceptional circumstances when the dignity of the House was suddenly attacked or privilege has been broken. Then, you can make a motion without notice the very next day, not that there is any distinction in the nature of the business. It is business in the one case just as it is in the other, but you dispense with notice if it is so urgent that it must be moved the very next day. I then come to rule 24A.

**Mr. President** (The Honourable Sir Abdur Rahim): Does rule 24A apply?

**The Honourable Sir Nripendra Sircar:** My submission would be that it does apply :

“Save as is otherwise provided, no discussion of a matter of general public interest shall take place otherwise than on a resolution moved in accordance with the rules governing the moving of resolutions except with the consent of the President and of the Member of the Government to whose department the motion relates.”

Now, I think it is my friend, Mr. Desai, who said—I do not purport to quote his exact words—“It may have two phases: it may be that it is a matter of general public interest, but it is primarily not a matter of general public interest”. You may call it secondary phase. The primary phase is the question of privilege. I submit with great respect to my Honourable friend that it is a fallacy. Once it is proved, conceded or admitted that it is a matter of general public interest, which, I think, undoubtedly it is, then, I submit, it cannot be done except in compliance with rule 24A. And if I have not misunderstood my friend, I think he suggested that this discussion could take place only with the consent of the Member of the Government concerned and of the President. That is not my reading of the rule. If he moves a Resolution, he does not want the consent either of the President or of the Member of Government concerned. But if he says it is a matter of general public importance—but I would not move a Resolution—then he can move it by a motion provided he has your consent and of the Member of Government concerned.

**Sir Muhammad Yakub:** Which of the Honourable Members of the Executive Council is in charge of the Department of the Privileges of the House? (“Hear, hear” and Applause.)

**The Honourable Sir Nripendra Sircar:** My Honourable friend, Sir Muhammad Yakub, has been rather excited over this rule which I can well understand, because it is a question of privilege. Supposing a Resolution is moved in this form :

“Inasmuch as it is a breach of privilege of this House to take any action against any person for publishing a fair and true account of a speech delivered in this House, it recommends to the Governor General in Council that he should issue instructions forthwith to desist such action in connection with such republication.”

I am not trying to draft the Resolution. Supposing it is moved in that way . . . . .

**Pandit Govind Ballabh Pant:** May I just point out that, under the Standing Orders and rules, the Resolution should not contain an argument?

**The Honourable Sir Nripendra Sircar:** Omit the reasoning. My Honourable friend has only to look at the Resolutions to be moved on the 11th or 20th.

**Mr. President** (The Honourable Sir Abdur Rahim): All Resolutions have got to be balloted.

**The Honourable Sir Nripendra Sircar:** Surely, and if all Members feel so very keenly, the surest way of getting a Resolution balloted is for 54 Members to get together and send the Resolution. It comes up on the top without any difficulty whatsoever. That has been often done and that can be done again.

**Mr. President** (The Honourable Sir Abdur Rahim): Under rule 24A, how is this to be brought up, by a motion or a Resolution?

**The Honourable Sir Nripendra Sircar:** It can be brought up in two ways; on a Resolution, or on a motion without a Resolution with the consent of the President or of the Member of the Government to whose Department the motion relates. The act complained of is the demand of security by the United Provinces Government.

**Mr. President** (The Honourable Sir Abdur Rahim): What answer does the Honourable Member give to Sir Muhammad Yakub's question?

**The Honourable Sir Nripendra Sircar:** My friend is wrong in thinking that we have to answer who is in charge of "privilege". That is not the question. The complaint which is made refers to the order of the United Provinces Government in exercise of its Statutory powers demanding security. The matter of demanding security by the executive is a matter of the Home Department. When a question is moved that a locomotive should be built here irrespective of the question of costs, and so on, whose department is it?

**Mr. President** (The Honourable Sir Abdur Rahim): The Chair simply wanted to know about it.

**The Honourable Sir Nripendra Sircar:** My answer is again the Home Department. He has got to get the consent of the Home Member, and, of course, of the President. A passage was read from page 108 of May's Parliamentary Practice by, I think, my Honourable friend, Mr. Jinnah:

"The Lord Chief Justice of England, in a more recent case, further laid it down, that 'if a member publishes his own speech, reflecting upon the character of another person, and omits to publish the rest of the debate, the publication would not be fair, and so would not be privileged', but that a fair and faithful report of the whole debate would not be actionable."

Now, Sir, I have no desire to inflict the whole case before you. In the original charge to the jury, the Chief Justice said that no civil action would lie; then, there was an appeal, and, in the appellate Court, it was said: This is a case for libel. You have got to prove that the intention was to defame him and that intention in negatived by the fact that in publishing this book his real desire was not to defame him, but that the public should have an account of what passed in the House of Commons. Therefore, he said, there will be no action, either civil or criminal. It was a minor action for libel, not libel nor indictment, that was a fair and faithful account of what was said in the House. If you applied the same reasoning, it would be no answer to a prosecution for sedition, because, the argument, which found favour with the judges,—and if I may say so respectfully, quite a sound argument—was this: there are two considerations, one that the character of a man has got to be saved, and, two, that it is in the interests of the public that the speech should be published. Of the two conflicting interests, we find that public interest is the more important one. That is under application when the offence charged is sedition, or, as in the English case, a case of obscene libel: there the public interest requires that the seditious speech should be punished. Wason's case is not against me in any way. There was conflict of private and public interests in Wason's case. There the conflicting interest is not private, but the public interest of punishment for sedition.

I have one more word to say about an argument . . . .

**Mr. Sri Prakasa:** Sedition is not allowed in this House: If anyone had uttered sedition, you, Mr. President, would have stopped it!

**Sir Oowasji Jehangir** (Bombay City: Non-Muhammadan Urban): Who says it is not allowed in this House?

**Mr. Sri Prakasa:** The Manual of Business (clause 57) says so.

**The Honourable Sir Nripendra Sircar:** It is not my business now to argue whether the speech complained of is seditious or not seditious: we are not discussing that question now—we are not in Court: I am only trying to point out that there is no privilege for re-publishing a speech separately. If you issue it in the form of a pamphlet and publish it, or if you republish it in a newspaper, then, I submit, the rulings at page 108 are perfectly clear—I will only read four lines:

“If a member publishes his speech, his printed statement becomes a separate publication, unconnected with any proceedings in Parliament. This view of the law has been established by two remarkable cases.”

Here the House has no privilege in Parliamentary sense. Members have got certain rights under Statutes. One more word about Hansard. The position is this. You will find all that in the book: I do not desire to trouble the House by reading it all. The trouble arose, as you know, in four cases successively fought, and known as Stockdale *versus* Hansard. In each case, the House went on holding that it had certain privileges and on the strength of those privileges, it went on punishing people who, on the strength of judgments of Courts, troubled Hansard. In the second case brought to Court, it was said “We do not care what the House of Commons has said: they have got no such privilege”. In the third case, Stockdale was actually in jail, because the House of Commons had sent him to jail, but, while in jail, he issued another writ. In these cases, the House decided that it had the privilege and the Court went on saying: “You do not have the privilege”; and, then, they passed the Parliamentary Act in 1850 which gives immunity from civil and criminal action, in respect of papers printed by order of the House. Protection given to publications in Hansard was secured by legislation and not on Parliamentary privilege. Even the Act does not extend to private republications. If you turn to page 109 of May, it is a protection not by reason of any privilege of the House: it was a Statutory protection which was given, and the protection is only to publications by the authority or order of either House. That is the origin of protection for publications. The last thing I want to remind the House about is this: you look at another privilege, the privilege of freedom from arrest. In England, as my friend said, they apply common law: they say freedom from arrest is based on custom, and the custom must be immemorial. A baby of ten years has no business to rely on custom, and, therefore, while it was held that Parliament have got that privilege, that cannot apply to this House created in recent times by Statute. What is the position here? This House having no privilege, and no Member having any protection without a Statute, we had to enact a Statute in 1925; and, it is only by reason of that Statute, that Members here get that freedom from arrest which is ensured to them in Parliament by the privileges enjoyed by Members of Parliament. I do not desire to repeat my argument that protection or right must be based on Statute, and, I submit, that this motion should be ruled out of order.



**Mr. President** (The Honourable Sir Abdur Rahim): The Chair is very much obliged to the Honourable Members who have given it so much assistance in this matter. It is such an important question of privilege and procedure that the Chair thought it must hear the arguments fully as regards the points raised. The Chair will give its ruling afterwards..

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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.

**Mr. President** (The Honourable Sir Abdur Rahim): I have to inform the Assembly that up to 12 Noon on Friday, the 7th February, 1936, the time fixed for receiving nominations for the Standing Committee on Roads, the Standing Committee for the Department of Industries and Labour and the Standing Committee on Emigration only one, three and eight nominations, respectively, have been received. As the number of candidates is equal to the number of vacancies in each case, I declare the following to be duly elected:

*Standing Committee on Roads.*

Babu Kailash Behari Lal.

*Standing Committee for the Department of Industries and Labour.*

- (1) Mr. M. Ananthasayanam Ayyangar,
- (2) Mr. Lalchand Navalrai, and
- (3) Mr. L. C. Buss.

*Standing Committee on Emigration:*

- (1) Mr. Mohan Lal Saksena,
- (2) Mr. N. M. Joshi,
- (3) Mr. C. N. Muthuranga Mudaliar,
- (4) Mr. Ram Narayan Singh,
- (5) Mr. Satya Narayan Sinha,
- (6) Pandit Krishna Kant Malaviya,
- (7) Rao Bahadur M. C. Rajah, and
- (8) Mr. C. H. Witherington.

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ELECTION OF MEMBERS TO THE STANDING COMMITTEE FOR THE DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

**Sir Girja Shankar Bajpai** (Secretary, Education, Health and Lands Department): Sir, I beg to move the following:

“That this Assembly do proceed to elect, in such manner as the Honourable the President may direct, three non-official Members to serve on the Standing Committee to advise on subjects, other than ‘Indians Overseas-Emigration’ and ‘Haj Pilgrimage’, dealt with in the Department of Education, Health and Lands.”

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

“That this Assembly do proceed to elect, in such manner as the Honourable the President may direct, three non-official Members to serve on the Standing Committee to advise on subjects, other than ‘Indians Overseas—Emigration’ and ‘Haj Pilgrimage’, dealt with in the Department of Education, Health and Lands.”

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim): I may inform Honourable Members that for the purpose of election of Members to the Standing Committee for the Department of Education, Health and Lands, the Notice Office will be open to receive nominations up to 12 Noon on Wednesday, the 12th February, 1936, and the election, if necessary, will as usual be held in the Secretary’s Room in the Council House between the hours of 10-30 A.M. and 1 P.M. on Friday, the 14th February. The election will be conducted in accordance with the principle of proportional representation by means of the single transferable vote.

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### THE CINEMATOGRAPH (AMENDMENT) BILL.

APPOINTMENT OF MR. S. K. DAS-GUPTA TO THE SELECT COMMITTEE.

**The Honourable Sir Henry Craik** (Home Member): Sir, I move:

“That Mr. S. K. Das-Gupta be appointed to the Select Committee on the Bill further to amend the Cinematograph Act, 1918, for a certain purpose, as passed by the Council of State, in place of Mr. Pradyumna Prasad Singh who has ceased to be a member of the Assembly.”

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

“That Mr. S. K. Das-Gupta be appointed to the Select Committee on the Bill further to amend the Cinematograph Act, 1918, for a certain purpose, as passed by the Council of State, in place of Mr. Pradyumna Prasad Singh who has ceased to be a member of the Assembly.”

The motion was adopted.

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### THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

(AMENDMENT OF SECTION 51.)

APPOINTMENT OF KHAN BAHADUR SHAIKH KHURSHAIID MUHAMMAD TO THE SELECT COMMITTEE.

**The Honourable Sir Henry Craik** (Home Member): Sir, I move:

“That Khan Bahadur Shaikh Khurshaid Muhammad be appointed to the Select Committee on the Bill further to amend the Code of Civil Procedure, 1908, for certain purposes, (*Amendment of Section 51*), in place of Mr. J. M. Chatarji who has ceased to be a member of the Assembly.”

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

“That Khan Bahadur Shaikh Khurshaid Muhammad be appointed to the Select Committee on the Bill further to amend the Code of Civil Procedure, 1908, for certain purposes, (*Amendment of Section 51*), in place of Mr. J. M. Chatarji who has ceased to be a member of the Assembly.”

The motion was adopted.

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THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

(AMENDMENT OF SECTION 60.)

APPOINTMENT OF KHAN BAHADUR SHAIKH KHURSHAIID MUHAMMAD TO THE SELECT COMMITTEE.

**The Honourable Sir Henry Crank** (Home Member): Sir, I move:

“That Khan Bahadur Shaikh Khurshaid Muhammad be appointed to the Select Committee on the Bill further to amend the Code of Civil Procedure, 1908, for certain purposes, (*Amendment of Section 60*), in place of Mr. J. M. Chatarji who has ceased to be a member of the Assembly.”

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

“That Khan Bahadur Shaikh Khurshaid Muhammad be appointed to the Select Committee on the Bill further to amend the Code of Civil Procedure, 1908, for certain purposes, (*Amendment of Section 60*), in place of Mr. J. M. Chatarji who has ceased to be a member of the Assembly.”

The motion was adopted.

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THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

(AMENDMENT OF SECTION 51.)

APPOINTMENT OF THE HONOURABLE SIR FRANK NOYCE TO THE SELECT COMMITTEE.

**The Honourable Sir Nripendra Sircar** (Law Member): Sir, I beg to move:

“That in place of Mr. A. G. Clow, the Honourable Sir Frank Noyce be appointed to the Select Committee on the Bill further to amend the Code of Civil Procedure, 1908, for certain purposes, (*Amendment of Section 51*).”

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

“That in place of Mr. A. G. Clow, the Honourable Sir Frank Noyce be appointed to the Select Committee on the Bill further to amend the Code of Civil Procedure, 1908, for certain purposes, (*Amendment of Section 51*).”

The motion was adopted.

# THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

## (AMENDMENT OF SECTION 60.)

### APPOINTMENT OF THE HONOURABLE SIR FRANK NOYCE TO THE SELECT COMMITTEE.

**The Honourable Sir Nripendra Sircar** (Law Member): Sir, I beg to move:

“That in place of Mr. A. G. Clow, the Honourable Sir Frank Noyce be appointed to the Select Committee on the Bill further to amend the Code of Civil Procedure, 1908, for certain purposes, (*Amendment of Section 60*).”

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

“That in place of Mr. A. G. Clow, the Honourable Sir Frank Noyce be appointed to the Select Committee on the Bill further to amend the Code of Civil Procedure, 1908, for certain purposes, (*Amendment of Section 60*).”

The motion was adopted.

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### THE PAYMENT OF WAGES BILL.

**Mr. President** (The Honourable Sir Abdur Rahim): The House will now resume consideration of the Bill to regulate the payment of wages to certain classes of persons employed in industry, as reported by the Select Committee.

**The Honourable Sir Nripendra Sircar** (Law Member): Sir, I beg to move:

“That for the proviso set out in amendment No. 34\*, the following be substituted, namely:

‘Provided that, subject to any rules made in this behalf by the Local Government, if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which they are required to give either expressly by their contracts of employment or impliedly by the terms of their service) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for 13 days as may by any such contract or terms be due to the employer in lieu of due notice.’”

Sir, I do not really desire to take part in any discussion on the merits of this question. I am moving this amendment because, I think, it really brings out the idea which the Mover had in his mind. The word ‘impliedly’ has been used. Very often there is no express agreement as to the length of notice, but that length of notice is inferred from the terms of employment. For instance, a weekly engagement generally implies a weekly notice. Sir, I beg to move:

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\*“That to sub-clause (2) of clause 9 of the Bill, the following proviso be added:

‘Provided that, subject to any rules made in this behalf by the Local Government, if ten or more employed persons acting in concert absent themselves without due notice or reasonable cause, such deduction from any such person may include such amount, not exceeding his wages for 13 days as may under his contract of employment be due to the employer in lieu of notice.’”

**Mr. V. V. Giri** (Ganjam *cum* Vizagapatam : Non-Muhammadan Rural) : Sir, I rise to oppose this amendment. I seek your indulgence, Sir, for a few minutes to explain to this House the psychological effect of this amendment now introduced in this Bill on those for whom this Bill is intended to benefit. I claim, Sir, to know the workers of this country, being a worker myself in the cause of the trade union movement in this country during the last 15 years. I claim, Sir, that I had to take part in many a strike and lock-out throughout the length and breadth of this country, and I had to intervene in many a lightning strike for the settlement of disputes. With this humble experience of mine, I am bound to say that—I shall be failing in my duty if I do not state it—if the Government of India desire to introduce this amendment, the workers will have a right to feel a grievance against the Government, and it will further take away the grace, the wisdom, the statesmanship that prompted originally the Honourable Sir Frank Noyce who moved this Bill before this House.

Sir, this amendment has created an entirely new situation. Firstly, Sir, the subject matter of this amendment was not at the back of the mind of the Government of India when this Bill was introduced in the year 1933 or re-introduced in the year 1935. This matter was placed before a Select Committee by my Honourable friend, Sir Hormasji Mody, at a later stage of the proceedings of the Select Committee, and it was discussed. The Select Committee came to the conclusion that the non-acceptance of this amendment did not interfere very much with the rights and privileges of the employer, and the Select Committee did not accept this amendment. Thirdly, at the Simla Session, this amendment did not find a place on the Order Paper, nor did my Honourable friend, Sir Hormasji Mody, bring forward this amendment at the Simla Session. Further, Sir, it must be remembered that, on a vital amendment of this character, the Government of India must plainly admit that they had not full and frank discussion with the Local Governments of this country, nor can they honestly say that the subject matter of the amendment was brought to the notice of the organised unions representing workers, whether they be central organisations or local organisations of workers. Therefore, the workers will have a real right of complaint that this amendment is being pushed through against their interests. Again, when we wanted to bring forward the fortnightly payment of wages under this Bill, it was remarked that, simply because we were in a position technically to bring it forward, we were bringing it, and, therefore, I made the suggestion in my speech on the matter of fortnightly payment of wages that it might be brought forward by the Government of India at an early stage by a different Bill. So, also, our complaint is that this amendment should not have been brought forward by a back door method, and, if I may say so, though technically it may be correct to bring up this amendment, it ought to have been brought forward as an amendment to the Trade Disputes Act, of course, even then, after giving the fullest opportunity to the workers' organisations and the public to have their say in the matter. The workers will be justified in saying that, when they wanted bread, they secured stone, and for what? Merely for a mess of pottage, namely, this Wage Payment Bill, and by selling their rights and privileges. I would like to say in this connection, and it would be quite relevant to say something about strikes and lightning strikes. I can assure you that strikes or lightning strikes would not occur, would not be declared by the workers for the fun of it. It is the workers that have to lose more than the employers by such strikes or lightning strikes. You can take it from

me that in ninety-nine cases out of hundred these lightning strikes or strikes occur on account of grave provocation on the part of the supervising staff. It is due to the fact that corruption and bribery are practised by the supervising staff, and because the employers would not take note of it or would not care to look into these matters, that some of these strikes and lightning strikes do occur. Therefore, the employers must thank themselves if such lightning strikes or strikes occur. I may also tell you that lightning strikes do not occur in organised industries where there are organised unions, because organised unions believe in representation before action.

**Sir H. P. Mody** (Bombay Millowners' Association: Indian Commerce): Is that a fact?

**Mr. V. V. Giri:** It is from my own experience that I am saying.

**Sir H. P. Mody:** What about the 1929 strike?

**Mr. V. V. Giri:** It may be an exception, but generally—I am thinking of the general conditions of things—lightning strikes occur because of the provocation of the supervisors, and it lies with my Honourable friend, Sir Hormasji Mody, to see that unions are organised in the best manner so that, even if there were doubts that they might happen, that minimum doubt also might be removed by helping real trade union movement in the country. The remedy of repression is much worse than the disease of lightning strikes. And lightning strikes, I am bound to say, that right to strike is a fundamental right so far as workers are concerned. It is as fundamental as the right to live and the right to work, and workers, under no circumstances, will give away that right. At the same time, I want to assure the House that organised trade union movement in the country does not believe in strikes for strikes' sake. It believes that strikes are the last resort when all other attempts at a settlement have failed. So that, the real remedy, so far as the employer is concerned, for avoiding strikes or lightning strikes, is to encourage greater contact between the employers' organisations and the workers' organisations, namely, trade unions. That fact is generally forgotten by the employers. A Royal Commission was appointed, the country had to spend lakhs of rupees and we have the honour of having two distinguished Members of this House who sat on that Commission, and it is relevant that I should state from time to time what that Commission has said with regard to how these strikes and lightning strikes and unrest in industries can be avoided. But, unfortunately, in this country, Royal Commissions are associated with royal omissions, and the recommendations of the Royal Commission have not been carried out at all in their spirit. I may refer to certain quotations from the report of the Royal Commission on this matter, as they are not only relevant, but the House which has spent so much money ought to know exactly what those recommendations are . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member will stop here and may continue his speech the next day.

## STATEMENT OF BUSINESS.

**The Honourable Sir Nripendra Sircar** (Leader of the House): Would you allow me to make a statement of business? In my statement on Friday last, I indicated that whatever happened today, the Ottawa Resolution would form the first item of business on Wednesday. I was not then in a position to anticipate that all stages of the Payment of Wages Bill would not be completed today, and in view of what has occurred today, we propose to put down the remaining stages of this Bill for Wednesday in advance of the Ottawa Resolution.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 11th February, 1936.