

Tuesday, 20th September, 1932

**THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)**

Volume V, 1932

(20th September to 30th September, 1932)

**FOURTH SESSION
OF THE
FOURTH LEGISLATIVE ASSEMBLY, 1932**



**NEW DELHI
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1933**

Legislative Assembly.

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THE HONOURABLE SIR IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E.

Deputy President :

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

Panel of Chairmen :

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SIR ABDUR RAHIM, K.C.S.I., Kt., M.L.A.

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MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

RAI BAHADUR D. DUTT.

Marshal :

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

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LEGISLATIVE ASSEMBLY.

Tuesday, 20th September, 1932.

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

QUESTIONS AND ANSWERS.

RECRUITMENT OF SIKHS UNDER THE IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH.

463. *Sardar Sant Singh : (a) How many appointments carrying pay more than Rs. 200 per mensem were made under the Imperial Agriculture Council and of what nature ?

(b) How many Muhammadans, Hindus, Anglo-Indians and Sikhs were taken in each case ?

(c) Why was no Sikh recruited ?

Mr. G. S. Bajpai : (a) and (b). The Honourable Member presumably means the number of persons appointed to posts and not the number of appointments created. A statement, based on this assumption showing the number and nature of appointments and the representation of different communities, is laid on the table.

(c) Does not arise.

Statement showing the number of persons appointed to posts in the Imperial Council of Agricultural Research.

Between June, 1929, when the Council was constituted, and 31st August, 1932, thirty-six persons were appointed on the administrative and research sides of the Imperial Council of Agricultural Research.

The nature of the appointments is as follows :—

Superior (officers)	..	7 appointments.
Ministerial	..	14 appointments.
		(1 Superintendent permanent gazetted and 1 Superintendent Acting gazetted, 11 permanent non-gazetted and one officiating non-gazetted appointments.)
Technical	..	15 (8 gazetted and 7 non-gazetted temporary posts on the research side).

The representation of different communities is as follows :—

Superior (Officers') appointments.

Muslims	..	3 These refer to the post of Vice-Chairman, held by a Moslem twice on an officiating basis, and to the post of Secretary, held by a Moslem permanently from 1st June, 1929 to 8th April, 1932.
Hindus	..	2 One of these refers to the post of Secretary, to which a Hindu has been appointed since 9th April, 1932.
Europeans	..	2
Anglo-Indians and Sikhs	..	Nil.

Ministerial appointments.

Muslims	..	..	4 (includes one acting Superintendent).
Hindus	..	..	9 (includes one Superintendent now appointed as Secretary).
Anglo-Indians	..	..	Nil.
Sikhs	..	..	1

Technical appointments.

Muslims	..	..	3
Hindus	..	..	11
Anglo-Indians and Sikhs	..	..	Nil.
European	..	..	1

APPOINTMENT OF SIKH ASSISTANTS IN THE DEPARTMENT OF INDUSTRIES AND LABOUR AND PUBLIC WORKS BRANCH.

464. ***Sardar Sant Singh** : (a) Is it a fact that there is not a single Sikh working as an Assistant of the Upper Division in the Department of Industries and Labour and Public Works Branch ?

(b) Is it a fact that the great paucity of the Sikhs in these offices in these grades has many times been brought to Government's notice, and do Government propose to take a sufficient number of Sikhs in future vacancies ? If not, why not ?

The Honourable Sir Frank Noyce : (a) No ; one Sikh is working as Assistant in a temporary vacancy.

(b) The answer to the first part of the question is in the negative. Vacancies in the grade are filled partly by promotion and partly by fresh recruitment. In respect of the latter, Government propose to adhere strictly to the present policy regarding the representation of minority communities.

APPOINTMENT OF SIKHS IN THE RAILWAY BOARD.

465. ***Mr. D. K. Lahiri Chaudhury** (on behalf of Sardar Sant Singh) : (a) How many temporary, officiating and permanent vacancies occurred in the ministerial establishment of the Railway Board since 1st January, 1931 and how were these filled up ?

(b) How many Muhammadans, Hindus and Sikhs were taken on each occasion ?

(c) Do Government propose to take Sikhs in the future vacancies ? If not, why not ?

Mr. P. R. Rau : (a) and (b). During the period in question, the number of temporary vacancies which were filled by recruitment from outside was six. In these vacancies, five Hindus and one Muslim were appointed. Officiating vacancies were filled from permanent or temporary staff already in the office. Two permanent vacancies were filled by staff in the office of whom one was a Hindu and the other a Muhammadan.

(c) For vacancies in the near future, there are 24 men on the waiting list of retrenched staff. These will have to be given the opportunity of employment according to their standing in the list, irrespective of communal considerations, before any fresh recruitment is undertaken.

RECRUITMENT OF SIKHS IN THE SURVEY OF INDIA DEPARTMENT.

466. ***Mr. D. K. Lahiri Chaudhury** (on behalf of Sardar Sant Singh) : (a) Will Government please refer to question No. 580 answered on 17th September, 1928 and lay on the table a statement showing the number of appointments—temporary and permanent—made in the Survey of India Department as E. A. C. since 1st January, 1928, and the number of vacancies offered to Sikhs ?

(b) Do Government propose to take steps to safeguard the interest of Sikhs and order their recruitment in sufficient number in future vacancies ? If not, why not ?

Mr. G. S. Bajpai : (a) A statement giving the information required is laid on the table.

(b) When recruitment to these posts is reopened, the claims of Sikhs will be considered in accordance with the standing orders on the subject of communal representation in this service.

Statement showing the number of persons appointed and Sikhs appointed to Class II of the Survey of India since the 1st January, 1928.

Year.	Total No. of appointments made.	Number of Sikhs appointed.
1928	<i>Nil</i>	<i>Nil</i> .
1929	9, including 2 promoted from the Upper Subordinate Service	1
1930	} <i>Nil</i>	<i>Nil</i>
1931		

RECRUITMENT OF SIKHS IN THE SUBORDINATE ACCOUNTS SERVICE OF CERTAIN OFFICES.

467. ***Mr. D. K. Lahiri Chaudhury** (on behalf of Sardar Sant Singh) : (a) What is the total number of permanent and temporary appointments in the Subordinate Accounts Service in the following offices and how many of them are Hindus, Muhammadans and Sikhs :

- (1) Accountant General, Central Revenues,
- (2) Auditor General,
- (3) Central Accounts Office, Public Works Department,
- (4) Director of Railway Audit,
- (5) Director of Commercial Audit,
- (6) Accountant General, Posts and Telegraphs,
- (7) Deputy Accountant General, Posts and Telegraphs, Delhi, and
- (8) Audit Office, Indian Stores Department ?

(b) If Sikhs are not adequately represented, do Government propose to take steps to provide the Sikhs in future vacancies in these offices? If not, why not?

The Honourable Sir Alan Parsons : (a) The Central Accounts Office, Public Works Department, and the Office of the Director of Commercial Audit have been abolished. I lay on the table a statement containing the information required by the Honourable Member in respect of the other offices.

(b) Appointments to the Subordinate Accounts Service, with rare exceptions, are made as a result of a competitive examination open to clerks in Audit Offices. The communal distribution in this Service, therefore, depends necessarily on the ability of the individual to pass the examination; and Government do not propose to interfere with this excellent system.

Name of Offices.	Sanctioned strength of Subordinate Accounts Service.		Hindus.	Muhammadians.	Sikhs.	Parsees.	Total.
	Perma- nent.	Tem- porary.					
Auditor General	23	1	24	..	..	..	24
Accountant General, Central Revenues.	25	2	25	2	..	..	27
Director of Railway Audit ..	8	1	8	1	..	..	9
Audit Officer, Indian Stores Department.	13	..	13	..	..	..	13
Accountant General, Posts and Telegraphs.	8	..	8	..	..	..	8
Deputy Accountant General, Posts and Telegraphs, Delhi.	19	..	15	2	1	1	19

RETRENCHMENT OF SIKHS IN THE MILITARY ACCOUNTS DEPARTMENT.

468. ***Mr. D. K. Lahiri Chaudhury** (on behalf of Sardar Sant Singh) : What was the total number of Sikhs as against Hindus and Muhammadians in the Military Accountant General's Department on 1st January, 1931 and what is the present strength under the same categories at present? How many Sikhs have been retrenched? Why has this been done? Are they already in a very small number?

The Honourable Sir Alan Parsons : On 1st January, 1931, the numbers were, Hindus 3,584, Muslims 381 and Sikhs 254. They are now 2,962, 323 and 203, respectively. Sixteen Sikhs have been retrenched, including nine who offered to retire voluntarily under the retrenchment terms. In carrying out retrenchment in the Military Accounts Department, there has been no departure from the orders laid down by Government in regard to the maintenance of the pre-retrenchment proportions of the various communities.

RETRENCHMENT OF THE MINISTERIAL ESTABLISHMENT OF THE CIVIL SECRETARIAT.

469. ***Mr. D. K. Lahiri Chaudhury** (on behalf of Sardar Sant Singh) : (a) Will Government please state how many men belonging to the ministerial establishment serving in the Civil Secretariat who have put in more than 25 years' service have been retrenched, and specify the number by Departments ? Where such persons have been retained, will Government please state on what grounds ? Will Government state their names and special qualifications ?

(b) Is it a fact that in certain offices some persons of over 25 years' service have been retained whilst in others such persons, without regard to their hardships, have been mercilessly thrown out ? If so, why ? Are Government prepared to hold an inquiry into this matter ? If not, why not ?

The Honourable Sir Alan Parsons : (a) I lay on the table a statement giving the information asked for in the first sentence of this question. The order of retrenchment in the Secretariat was, first, men over 55, secondly, men with 30 years' service and, thirdly, selected persons of over 25 but with less than 30 years' service. In accordance with these orders, it is not, as the Honourable Member's question seems to suggest, a question of discharging all persons with 25 years' service and over but of selecting certain individuals from among that category for discharge.

(b) No.

Statement showing the number of men with over 25 years' service in the Civil Secretariat who have been retrenched, excluding voluntary resignations or retirements.

Department.	Number of men with over 25 years' service who have been retrenched, excluding voluntary resignations.
Central Board of Revenue	1
Legislative Assembly Department	3
Army Department	9
Foreign and Political Department	3
Financial Adviser, Military Finance	12
Department of Industries and Labour	1
Finance Department	2
Other Departments	<i>N/A.</i>
Total	31

RECRUITMENT OF SIKH PORTERS IN THE DELHI RAILWAY MAIL SERVICE.

470.***Mr. D. K. Lahiri Chaudhury** (on behalf of Sardar Sant Singh) : Will Government please state the number of temporary and permanent porters' vacancies that occurred in the Delhi R. M. S. since January, 1932 and how many of these were given to Sikhs as against Hindus and Muhammadans ? If none, why ?

The Honourable Sir Frank Noyce : There were 96 leave vacancies, in which 13 Hindus, five Muhammadans and nine Sikhs officiated from time to time, and one permanent vacancy, in which a Sikh is officiating.

Dr. Ziauddin Ahmad : Do I understand the Honourable Member to say that there were five Muhammadans as against nine Sikhs ?

The Honourable Sir Frank Noyce : There were 96 leave vacancies, in which 13 Hindus, five Muhammadans and nine Sikhs officiated from time to time, and one permanent vacancy in which a Sikh is officiating.

Mr. M. Maswood Ahmad : What is the percentage of Sikh population to the total population of India ?

The Honourable Sir Frank Noyce : I should like to have notice of that question.

Dr. Ziauddin Ahmad : Take it from me that it is less than one per cent., or in its neighbourhood.

RECRUITMENT OF SIKH INFERIOR SERVANTS IN THE IMPERIAL SECRETARIAT.

471.***Sardar Sant Singh** : (a) Is it not a fact that the claims of the Sikhs are ignored in the grades of Record Sorters, Daftries, Jemadars and peons employed in the Government of India Secretariat ?

(b) What is the total strength of Record Sorters, Daftries, Jemadars and peons in each of the Departments of the Secretariat and how many of them are Hindus, Muhammadans, Christians and Sikhs ?

(c) Are Government prepared to issue orders for the recruitment of Sikhs in each and every Department in each grade in the future vacancies ? If not, why not ?

The Honourable Mr. H. G. Haig : (a) No. My information is that Sikhs rarely apply for these posts.

(b) The attention of the Honourable Member is invited to the statement laid on the table in reply to starred question No. 742, on the 9th March, 1932.

(c) Sikhs are not debarred from appointment to the posts in question and if they were to come forward I have no doubt that the Departments would be prepared to employ them. Such posts are not reserved for any community and Government see no reason for the issue of orders as suggested.

Mr. Gaya Prasad Singh : Do Government propose to consider the question of communal representation in the jails and lunatic asylums also. (Laughter.)

The Honourable Mr. H. G. Haig : I think the communities secure appropriate representation without any action on the part of Government.

Mr. N. M. Joshi : Why do not Government propose to lay down any rules for these important posts of inferior servants ?

The Honourable Mr. H. G. Haig : Our special rules for recruitment relate to the clerical service and do not extend below that service.

Mr. N. M. Joshi : May I know why it should not extend below the clerical service ?

The Honourable Mr. H. G. Haig : Because it is not considered a matter of great public importance which community a record sorter or a daftri belongs to.

Mr. N. M. Joshi : Is it a fact that these posts are generally given to persons belonging to the working classes and there is no need for communal representation.

The Honourable Mr. H. G. Haig : I hope my Honourable friend is not suggesting a further extension of communal feeling to the working classes.

Mr. N. M. Joshi : May I know whether Government is aware that there is no communal feeling amongst the working classes and therefore Government does not feel the need for laying down any communal proportion.

The Honourable Mr. H. G. Haig : I have already said that the rules have not been extended to the inferior establishment.

RECRUITMENT OF SIKHS IN THE THIRD DIVISION OF THE IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH OFFICE.

472. ***Sardar Sant Singh :** (a) How many temporary and permanent vacancies in the Third Division occurred in the Imperial Agriculture Research Council Office since 1st January, 1931 and how many were given to Sikhs ?

(b) If no Sikh has so far been recruited in any of these vacancies, will Government please state the reason why ? Is it a fact that Sikhs are conspicuous by their absence in this grade ?

Mr. G. S. Bajpai : (a) Since January, 1931, there have been 28 temporary vacancies in the Third Division of the office of the Imperial Council of Agricultural Research. Six of these appointments were not filled as a measure of economy ; of the remaining 22, three were given to Sikhs. Only one post has become permanently vacant since this date and, as a measure of economy it has been abolished from March, 1932.

(b) Does not arise.

APPOINTMENT OF A PERMANENT SUPERINTENDENT IN THE FINANCE DEPARTMENT.

473. ***Sardar Sant Singh :** (a) Is it a fact that a post of Superintendent was permanently filled in the Finance Department in June, 1931 ?

(b) Is it also a fact that the Finance Department were about to issue orders in June, 1931 asking Departments not to fill posts permanently in view of retrenchment ?

(c) Will Government please state if the Finance Department had no intention in June, 1931, of making any retrenchments themselves ?

(d) If the answer to part (c) be in the negative, will Government please state why they filled a post of Superintendent permanently in June, 1931 ? Were they not aware then that orders for stoppage of permanent appointments were to be issued ?

The Honourable Sir Alan Parsons : (a) Yes.

(b) No.

(c) Yes, but not among Superintendents.

(d) As was explained yesterday in reply to part (a) of Mr. N. M. Joshi's question No. 398, the orders regarding not confirming Government servants in posts substantively vacant, if these were likely to be retrenched, were not issued till the 24th September, 1931.

OFFICE ADMINISTRATION OF THE FINANCE DEPARTMENT.

474. *Sardar Sant Singh : (a) Will Government please state if the post of Chief Superintendent in the Finance Department is not intended for the seniormost Superintendent ? Who is the seniormost Superintendent ?

(b) Will Government please say if it is not the intention in future to fill the post of Chief Superintendent by promotion of the seniormost Superintendent ?

(c) Is it a fact that Government contemplate abolishing the post of Chief Superintendent on the retirement of the present incumbent and entrusting the office administration to the Personal Assistant and Stenographer to the Finance Secretary ?

(d) Is it not a fact that only in the Army Department the office administration is in the hands of the Personal Assistant and Stenographer to Army Secretary ? Have any Civil Departments adopted the system ? Is the system in the Army Department satisfactory and are Government aware that there have been complaints about it ?

(e) Will Government please state why it is proposed to adopt the system in vogue on the Army side in the Finance Department as well ?

The Honourable Sir Alan Parsons : (a), (b) and (c). No.

(d) I understand that in the Army Department one of the Superintendents carries out, in addition to his normal work, the duties of Personal Assistant to the Secretary and also such duties in connection with the establishment as were ordinarily assigned to a Registrar in the Secretariat when that appointment was in existence some years ago. The system is not in force in other Departments of the Secretariat but I understand that it has proved satisfactory : and inquiries made showed that any complaints made were without foundation.

(e) Does not arise.

COMPULSORY RETIREMENT OF GOVERNMENT SERVANTS WITH 25 YEARS' SERVICE.

475. *Sardar Sant Singh : (a) Is it a fact that the question of retiring men with 25 years' service is under the consideration of Government ?

(b) If so, have Government considered whether the proposal will affect adversely Government servants who have gained experience of work ?

The Honourable Sir Alan Parsons : (a) No.

(b) Does not arise.

PROMOTIONS TO INSPECTORS AND SELECTION GRADE APPOINTMENTS IN THE POSTAL DEPARTMENT.

476. ***Sardar Sant Singh :** (a) Will Government be pleased to state whether or not it is a fact that promotions to Inspectors and selection grade appointments in the Postal Department were made strictly in accordance with seniority with due regard to efficiency before the issue of Director General's Circular No. 46, dated 3rd March, 1932 ?

(b) Will Government please state whether in the lowest selection grade examination held in 1929, meant for senior officials only, a number of junior officials who were otherwise not eligible, were allowed to appear at the said examination, because of their having been selected to appear at the old examination for Inspectors and Head Clerks (since abolished), in preference to senior men ?

(c) Is it a fact that no distinction existed between the senior and junior officials who had passed the lowest selection grade examination in 1929 and promotion was made according to seniority with due regard to efficiency till the issue of Director General's Circular No. 16, dated 18th August, 1930 ?

(d) Is it a fact that the senior candidates protested against Director General's Circular No. 16, dated 18th August, 1930, which laid down that every fifth vacancy should be given to a junior candidate ?

(e) Are Government aware of the assurance conveyed by the Director General, Posts and Telegraphs in his letter No. 256-S.31, dated 23rd June, 1931, explaining that the new rules do not seriously affect the prospects of the senior officials, as the percentage was only 20 per cent. ?

(f) Is it a fact that there is a practice in all other Government Departments of granting promotions according to seniority and are Government aware that the practice of giving every fifth vacancy to a junior candidate seriously prejudices the rights of senior qualified officials in the Post Office ?

Mr. T. Ryan : (a) No. The Honourable Member is referred to the reply given to Mr. Muhammad Muazzam Sahib Bahadur's starred question No. 664 in this House on the 7th March, 1932.

(b) Yes. This was allowed by special order.

(c) Yes, during the period from the date of the publication, in March, 1930, of the results of the first Lowest Selection Grade examination until the issue of the Director General's circular referred to, when the system was revised, with effect from the 1st April, 1930.

(d) Yes.

(e) The correct number of the Director General's letter referred to is S.A.-256-3/31. In it no assurance was given, but it was pointed

out that in view of the comparatively low percentage of the appointments then thrown open to juniors the prospects of senior men would not be seriously affected.

(f) The reply to the first part is in the negative. As regards the second part, Government do not consider that the reservation of some of the vacancies for junior candidates affords a real grievance to their seniors.

APPOINTMENT OF JUNIOR MEN AS INSPECTORS OF POST OFFICES.

477 *Sardar Sant Singh : (a) Are Government aware that under Director General's Circular No. 46, dated 3rd March, 1932, the cadres of Inspectors and Head Clerks to Superintendents of Post Offices have been separated and this debars senior officials from promotion to the Inspector's cadre ?

(b) Is it a fact that the symbols of the new examination for Inspectors are not yet published by the Director General, Posts and Telegraphs and that junior unqualified men are appointed as Inspectors over senior qualified and efficient men ?

Mr. T. Ryan : (a) The reply is in the affirmative.

(b) I assume that ' symbols ' is a misprint for ' syllabus ' : the reply is in the affirmative. As regards the latter part, Government are not aware that the fact is as stated.

APPOINTMENT OF JUNIOR MEN AS INSPECTORS OF POST OFFICES.

478. *Sardar Sant Singh : (a) Are Government aware that rules for Postal Department lowest selection grade examination were relaxed in the case of junior officials named in paragraph 5 of the Circular No. 46, dated the 3rd March, 1932 and such of them as were over 40 at the time of examination held in 1929 were required to pass the examination in two subjects only like other senior officials ?

(b) Are Government aware that consequent on this certain " junior " officials (over 40) have superseded senior officials and have been promoted to Inspectors' cadre in preference to senior officials, who were acting as Inspectors and Head Clerks to Superintendents of Post offices for many years, and who were reverted to make room for junior officials ?

(c) Is it a fact that they have been enjoying this privilege for long prior to the issue of Director General's Circular No. 46, dated 3rd March, 1932 ?

(d) If so, what policy do Government intend to follow in future and do they propose to consider the claims of senior men so adversely affected ?

Mr. T. Ryan : (a) The reply is in the affirmative.

(b) The revised procedure provided for the promotion of all eligible junior passed men to the Inspectors' cadre without disturbing the arrangements already made against vacancies which occurred before the introduction of that procedure.

(c) No. The Honourable Member is referred to the reply which I have just given to parts (a) and (c) of his question No. 476.

(d) As regards the first part of the question the future policy of Government in respect of such appointments is laid down in the Director-General's special general circular referred to by the Honourable Member in part (a) of this question. As regards the second part the reply is in the negative. The claims of senior men are adequately met by their eligibility for promotion to the appointment of Postmasters in the selection grade.

ALLOTMENT OF QUARTERS FOR THE SUBORDINATE STAFF OF THE NORTH WESTERN RAILWAY.

479. *Sardar Sant Singh : (a) Will Government be pleased to state how allotment of quarters among the subordinate staff above the rank of menials is made on the North Western Railway ?

(b) What are the chief determining factors, rank and pay or the nationality ?

(c) If the former, then what relation does it bear towards the different types or the main rooms in a building ?

Mr. P. B. Rau : (a) I am informed that no hard and fast rules have been laid down to regulate the allotment of quarters to the subordinate staff above the rank of menials as it has not been found practicable to enunciate a definite policy.

(b) Ordinarily the staff are considered for quarters in the following orders :

(i) Staff entitled to free quarters or house allowance in lieu thereof.

(ii) Staff not entitled to free quarters who are liable to be called out for duty without previous warning.

(iii) Other staff.

(c) As rank, pay or nationality are not the chief determining factors this question does not arise.

ALLOTMENT OF QUARTERS FOR THE SUBORDINATE STAFF OF THE NORTH WESTERN RAILWAY.

480. *Sardar Sant Singh : (a) Is it a fact that the Agent, North Western Railway in his letter No. 961|E.|62, dated 28th July, 1930, addressed to the General Secretary of the Railway Union advanced an assurance that the staff likely to be called to duty at unexpected hours will have preference in the case of allotment of quarters ?

(b) If the reply to the above be in the affirmative, are Government aware that at certain stations in Lahore Division things contrary to the above exist ?

Mr. P. B. Rau : (a) Yes.

(b) No.

STANDARD OF ACCOMMODATION FOR LADY TICKET COLLECTORS ON THE NORTH WESTERN RAILWAY.

481. ***Sardar Sant Singh** : What is the standard of accommodation for lady ticket collectors on the North Western Railway ?

Mr. P. B. Rau : The type usually allotted contains two main rooms, and, including other rooms and a verandah, has a floor area of 810 square feet.

LIFE SENTENCE AWARDED TO PANDIT JAGAT RAM.

482. ***Sardar Sant Singh** : (a) Will Government kindly refer to question No. 743 answered on 2nd March, 1931 and question No. 18 answered on the 7th September, 1931 and kindly state the action taken by Government in the case of Pandit Jagat Ram ?

(b) Will Government kindly lay on the table the reply promised to question No. 18 (f and g) ?

(c) Will Government kindly state the term of imprisonment which Pandit Jagat Ram, prisoner has undergone upto 15th August, 1932, in the Cellular Jail at Port Blair, special remission by the Government of India granted to him in the Indian jails and the remission earned ? Has the case of this prisoner been reviewed by Government ? If so, when ? Do Government propose to release him ?

(d) Will Government kindly state how often the prisoner was admitted into the hospital throughout ?

The Honourable Mr. H. G. Haig : (a) Pandit Jagat Ram was sentenced to death, with confiscation of property in 1915 by a Special Tribunal constituted under the Defence of India Act, under sections 121, 121-A, 122, 124-A and 131 of the Indian Penal Code. This sentence was commuted to one of transportation for life by the Governor-General in Council. He was confined in the Cellular Jail, Port Blair, for the whole period of his stay of five years eight months and 13 days in the Andamans. The further action taken in his case is stated in my reply to part (c) of this question.

(b) I lay on the table the reply promised to parts (f) and (g) of question No. 18.

(c) Pandit Jagat Ram has undergone 16 years 11 months and 2 days imprisonment up to the 15th August, 1932, exclusive of all remissions, and including the period served in the Cellular Jail at Port Blair. He was granted no special remission by the Government of India while in the Punjab Jails. The total remission earned up to the same date is four years nine months and 27 days. Out of this, two years and one month's peace remission was granted in the Andamans under the orders of the Government of India. His case has twice been reviewed by the Punjab Government in 1929 and in 1930. I understand that it is proposed by the Local Government to review the case again when he has completed 25 years' imprisonment with remissions.

(d) During the periods 4th September, 1916, to the 7th March, 1921, and 14th June, 1924, to the 6th June, 1932, he was admitted into hospital

27 times. No record of admissions is available for the period April, 1921, to June, 1923.

Parts (f) and (g). It is a fact that his conduct in Jail has been reported to be good but Government are unable to disclose the contents of the recommendations of jail officials which are confidential. As already explained in reply to part (a) of the question a sentence of transportation for life is determined by executive order. The Local Government who have considered his case have decided not to release him yet.

Mr. Gaya Prasad Singh : Are Government aware that the health of this prisoner has considerably gone down since his incarceration in the different jails of India and also in the Cellular Jail at Port Blair ?

The Honourable Mr. H. G. Haig : I have no definite information about the prisoner's health beyond what I have already given in answer to this question.

Mr. Gaya Prasad Singh : When do Government propose to review the case of this prisoner ?

The Honourable Mr. H. G. Haig : That, Sir, has been stated in my answer.

Sardar Sant Singh : May I know whether the Government of India do not consider it necessary to fix a maximum period which should be undergone by a prisoner who has been sentenced to transportation for life ?

The Honourable Mr. H. G. Haig : No, Sir. We have not found any necessity for taking such action.

Mr. Gaya Prasad Singh : Do I understand that this prisoner was sentenced to transportation for life ?

The Honourable Mr. H. G. Haig : He was sentenced to death and the sentence was commuted to transportation for life.

Sardar Sant Singh : May I know if the absence of any such rule fixing a maximum period for transportation for life will not give rise to a reasonable apprehension in the public mind that in the case of political prisoners Government are acting in a vindictive spirit ?

The Honourable Mr. H. G. Haig : No, Sir ; each case is considered on its merits.

Sardar Sant Singh : Can Government point out any case in which a man convicted of ordinary murder has had to spend 25 years in prison ?

The Honourable Mr. H. G. Haig : I should like to have notice of that question.

Mr. B. V. Jadhav : Are there not any cases in which persons convicted of similar offences have been let off after 14 years' imprisonment ?

The Honourable Mr. H. G. Haig : I am afraid I must ask Honourable Members to give me notice of questions relating to the details of the working of the transportation rules.

**HUMILIATING TREATMENT METED OUT TO MR. R. K. SAROSH IRANI IN
AUSTRALIA AND NEW ZEALAND.**

483. ***Sardar Sant Singh** : (a) Is it a fact that one Mr. R. K. Sarosh Irani of Sarosh Motor Works, Limited, Nasik, went on a trip to Australia and New Zealand ?

(b) Is it a fact that he made a representation to the Government of India of the humiliating experience he had to undergo in Australia ? If so, have the Government of India made any inquiries into the matter ? Has any correspondence passed between the Government of India and the Governments of Australia and New Zealand on the subject ? If so, will Government lay the correspondence on the table ?

(c) If the facts mentioned by Mr. R. K. Sarosh Irani in his letter to the Government of India are correct, do Government propose to take any retaliatory measures against the visitors from those countries to India ?

Mr. G. S. Bajpai : (a) Government understand that Mr. Irani visited New Zealand and Australia this year on his way back from Honolulu.

(b) A complaint made by Mr. Irani against the treatment meted to him by the passport authorities in New Zealand and Australia is being investigated.

(c) Does not arise.

Sardar Sant Singh : Will Government kindly lay the result of that investigation on the table when it is completed ?

Mr. G. S. Bajpai : I shall consider the suggestion.

LEASING OF GRAZING RIGHTS OF MILITARY LANDS IN LAHORE CANTONMENT.

484. ***Sirdar Sohan Singh** : (a) Will Government be pleased to state whether it is a fact that the Military Estates Officer, Lahore Circle leased the grazing rights of all military lands in Lahore Cantonment to one Gaya Pershad for five years by private treaty ?

(b) If so, will Government be pleased to state the amount for which this lease has been granted, and the amount for which this very right was leased in the previous year only for a period of one year ?

(c) Is it a fact that such a long-period lease of grazing right was never granted to any one before ?

(d) Is it also a fact that there were several other higher offers for the lease and that many enquiries were made from the Military Estates Officer as well as from one Gokal Chand, a clerk in the office as to when the lease of grazing right was to be put to public auction for tenders ?

(e) Is it a fact that all leases of military lands, even of small amounts of a couple of hundred of rupees, have always been given before and now either by public auction or public tender after either advertisement in paper, or after issue of public notice ?

(f) Is it a fact that no advertisement or public notice was issued in this case although it was the biggest lease ever granted and involved nearly Rs. 30,000 ?

(g) Is it a fact that in Lahore Cantonment the R. A. F. landing grounds which were leased by the Military Estates Officer for Rs. 225 last year, has secured as much as Rs. 500 this year when put in auction by the Military Engineering Department ?

(h) What action do Government propose to take to avoid such leases being given without public notice or advertisement ?

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

(b) Rs. 5,500 a year against Rs. 5,692 last year. The total is less this year because the grazing area has been reduced. The bid represents an increase of about Rs. 500 over last year's figure for the area actually leased. Moreover, the contractor has undertaken in addition to remove all obnoxious vegetation and overgrowth at his own expense.

(c) Government have no information. Five year leases are contemplated by the rules.

(d) No enquiries or other offers were made until the contract had been concluded.

(e) No. Under the rules the Military Estates Officer may dispose of such lands for periods not exceeding five years with the concurrence of the General Officer Commanding-in-Chief and public auction is not invariably required.

(f) Yes.

(g) Yes. Last year the Military Estates Officer realised Rs. 225 for this ground in open auction, and Rs. 660 for the Landing Ground at Amritsar. This year Rs. 500 was bid for the Lahore ground and only Rs. 400 for the ground at Amritsar.

(h) In view of what I have said in reply to part (e), no action is called for.

INQUIRY BY AN EXPERT COMMITTEE INTO THE RAILWAY ADMINISTRATION OF INDIA.

485. ***Mr. B. Das :** (a) Will Government be pleased to state if they have decided on the personnel of the Expert Committee to inquire into the Railway administration of India ? If so, who are they ?

(b) When is the Railway Expert Committee likely to meet ?

(c) What are the terms of reference to this Committee ?

Mr. P. R. Rau : (a) No ; the matter is under correspondence with the Secretary of State.

(b) and (c). Government are unable to give a reply to these questions at present, as nothing has yet been settled definitely.

Mr. B. Das : Was not this committee expected to be appointed last cold weather, and is it not a fact that Sir George Rainy made a statement that certain negotiations were going on between the Secretary of State and certain high railway experts and therefore this expert committee should be postponed till the coming cold weather ? Why has such delay occurred in the appointment of this committee ?

Mr. P. R. Rau : The delay is incidental to the necessity of finding out suitable people to conduct the inquiry.

Mr. B. Das : Has not one year gone since the Railway Retrenchment Committee of which the Honourable Member was Secretary reported about this committee ?

Mr. P. R. Rau : Yes, Sir.

Mr. Gaya Prasad Singh : What is the object of appointing this Railway Expert Committee in these times of financial stringency ?

Mr. P. R. Rau : I believe the object of this committee is to consider measures by which the working expenses of railways can be reduced, and times of financial stringency are exactly the times when such a committee should be appointed.

Mr. Gaya Prasad Singh : Why was not this subject entrusted to the Railway Retrenchment Sub-Committee ?

Mr. P. R. Rau : It was a recommendation of the Retrenchment Sub-Committee that an expert committee should be appointed.

Dr. Ziauddin Ahmad : May I remind the Honourable Member that the Railway Retrenchment Sub-Committee mentioned this fact on the strict understanding that this expert committee would be appointed in November last, the Members of the Retrenchment Committee being then engaged in the discussion of Finance Bill and having no time ?

The Honourable Sir Alan Parsons : Perhaps in the absence of my Honourable colleague, the Railway Member, I may answer the question. Efforts were immediately made by Government to collect personnel for this expert committee : as far as my recollection goes, we entered into telegraphic correspondence with the Secretary of State immediately. But members are aware that there were troubles, financial and economic, in other parts of the world as well, and none of the eminent gentlemen who were approached could be obtained for service on the committee. Since then we have been in correspondence with the Secretary of State in order to obtain suitable experts whose names would inspire confidence, to come out this cold weather ; and I happen to know that the Honourable Sir George Schuster himself has been discussing the matter with the India Office. I believe that fairly soon we ought to obtain a suitable committee and when we do so, of course, the names will be immediately announced in the House. I should like to make it quite clear that there is no intention on the part of the Government of India to go back upon the undertaking to appoint a committee of this kind.

Dr. Ziauddin Ahmad : May I just ask also, if the appointment of this committee was delayed, then why was not the Retrenchment Sub-Committee asked to continue this work ?

The Honourable Sir Alan Parsons : Though I believe the Honourable gentleman has fairly strong opinions on that subject, the recommendation of the Retrenchment Sub-Committee was quite definite that there should be an expert body to go into the whole working of the railway system in India. It was, I think, realised by most, perhaps not all, members of the Retrenchment Committee that an expert body was the type of body which was required.

Mr. H. P. Mody : Is it intended to go to the United States and other foreign countries in the hunt for experts for this committee ?

The Honourable Sir Alan Parsons : I am afraid at the moment I can make no statement as to the personnel of the committee.

Dr. Ziauddin Ahmad : Will this expert committee enter into the constitutional problems about railways also ?

Mr. P. R. Rau : No.

Dr. Ziauddin Ahmad : Only the day to day administration work and no constitutional question will be laid before the committee ?

Mr. P. R. Rau : No.

The Honourable Sir Frank Noyce : Sir, as the Honourable the Leader of the House has been summoned away on urgent business, he has requested me to obtain your permission to answer these questions.

INQUIRY BY AN EXPERT COMMITTEE INTO THE RAILWAY ADMINISTRATION OF INDIA.

486. ***Mr. B. Das :** (a) Has the attention of the Government been drawn to the press news that Government intend to appoint another expert Committee this autumn to investigate the question whether the Railways of India are to be under a statutory body ?

(b) Do Government propose to appoint such a committee and, if so, what will be its personnel and terms of reference ?

The Honourable Sir Frank Noyce (on behalf of the Honourable Sir C. P. Ramaswami Aiyar) : (a) Yes.

(b) There is no such proposal under consideration at present.

REDUCTION OF PAY OF INFERIOR SERVANTS OF THE PUBLIC WORKS DEPARTMENT, NEW DELHI.

487. ***Mr. Bhuput Sing :** (a) Is it a fact that the scales of pay of the *malis*, *chaudhries* and other inferior servants working under the Horticultural Division and other Divisions of the Public Works Department, New Delhi, have been reduced ? If so, will Government be pleased to state the percentage of cut in the salaries of such employees ?

(b) Will Government be pleased to state whether they decided that the pay of men getting a salary of Rs. 40 and below will not be reduced ?

(c) If the answer to part (b) be in the affirmative, will Government be pleased to state why the pay of these men drawing a salary below Rs. 40 has been reduced ?

(d) If the answer to part (b) be in the negative, will Government be pleased to state whether the pay of all inferior Government servants including the Police has been reduced ? If not, who are the men whose pay has not been reduced ?

(e) Do Government propose to restore the pay of these employees ? If not, why not ?

(f) Is it a fact that the Retrenchment Committee recommended the reduction of certain posts held by Europeans and Anglo-Indians in the Public Works Department, New Delhi, including the post of Personal Assistant to the Chief Engineer ? If so, is it a fact that, instead of

retrenching those posts held by Europeans and Anglo-Indians, Government are effecting retrenchment of expenditure by means of reducing the pay of inferior servants, in some cases by percentage cuts as high as 30 per cent. or more ?

(g) Is it a fact that the pay of men getting Rs. 16 maximum has been reduced to Rs. 12-12-0 and men getting a pay of Rs. 6 minimum has been reduced to Rs. 4|13|0 and the pay of the men drawing salaries between Rs. 16 and Rs. 6 has been reduced by the same percentage ? If so, will Government be pleased to state the reasons for effecting such a high percentage of cut in the pay of these low paid men ?

(h) Do Government propose to restore the pay of all men in the different divisions of the Public Works Departments, New Delhi, whose pay is Rs. 40 and below ? If not, why not ?

The Honourable Sir Frank Noyce : (a) The scale of wages of *malis* and *choudhries* has been reduced by 11 per cent. to 14 per cent., with effect from the 1st April, 1932.

(b) and (c). The decision which the Honourable Member has in mind refers to employees in regular service and does not apply to casual labour which is engaged from time to time as required. The practice is to engage this class of labour at market rates.

(d) Does not arise.

(e) No. The revised rates follow the local market rates.

(f) The Public Works, Accounts and Audit Departments Sub-Committee of the Retrenchment Advisory Committee recommended the abolition of certain posts some of which are or were held by Europeans. Some of these posts have been abolished. The Sub-Committee did not recommend the abolition of the post of Personal Assistant to the Chief Engineer but recommended that a technical Personal Assistant should be substituted for a non-technical Personal Assistant. There is no foundation for the suggestion that any of these posts has been saved by cutting down the wages of inferior servants.

(g) The wages of casual labourers in the Delhi Public Works Department have been reduced by 12 to 15 per cent. all round, with effect from the 1st April, 1932. The revised rates are in keeping with the local market rates.

(h) No.

INDIAN MEDICAL COUNCIL BILL.

488. *Mr. M. Maswood Ahmad (on behalf of Mr. Nabakumar Sing Dudhoria) : Will Government be pleased to state :

- (a) the special reasons for which the Indian Medical Council Bill is proposed to be brought on the anvil ;
- (b) the total number of registered medical practitioners existing at present in the whole of India ;
- (c) how many of such registered practitioners are members of the Indian Medical Service ;

(d) in what percentage the registered practitioners are allowed representation in the future medical council excluding the representation of the I. M. S.'s ; and

(e) the decisions that were arrived at at the special committee that sat in Simla in 1931, to consider the provisions of the forthcoming Medical Council Bill ?

Mr. G. S. Bajpai : (a) I would invite the attention of the Honourable Member to the Statement of Objects and Reasons attached to the Bill.

(b) Precise information is not readily available. Roughly speaking, however, there are in all about 27,000 registered medical practitioners in India.

(c) The information is being collected and will be supplied when available.

(d) I would refer the Honourable Member to clause 3 of the Bill.

(e) No Committee sat in Simla in 1931.

Mr. Lalchand Navalrai : Will the Honourable Member be pleased to state if opinions have been called for on this Bill from the medical people ?

Mr. G. S. Bajpai : When the Bill was circulated, opinions from medical faculties were received and I have no doubt my Honourable friend is aware that since then a stream of opinions has poured in upon the Government of India.

Mr. Gaya Prasad Singh : And most of these opinions have been adverse to the Medical Council Bill ?

Mr. G. S. Bajpai : My Honourable friend is perfectly at liberty to form his own opinion.

Mr. Gaya Prasad Singh : My question is not one of opinion. Is it not a fact that most of the opinions received on this Medical Council Bill are adverse to the Bill as framed by the member in charge ?

Mr. G. S. Bajpai : In the first place I would point out to my Honourable friend that I have not framed the Bill. In the second place, I do not think that most of the opinions received are against it.

Mr. M. Maswood Ahmad : Will the Honourable Member circulate the opinions to Members ?

Mr. G. S. Bajpai : If my Honourable friend will possess his soul in patience perhaps, next session, he will have an opportunity of considering both the Bill and the opinions.

Dr. Ziauddin Ahmad : Do Government propose to proceed with this legislation in November ?

Mr. G. S. Bajpai : No decision of that kind has been reached yet.

Mr. Lalchand Navalrai : Will the Honourable Member be pleased to state if licentiates have sent in a representation that their status should be the same as the graduates ?

Mr. G. S. Bajpai : Representations have been received. The licentiates have not said that their status should be the same but that they should be included in the all-India register.

Mr. Lalchand Navalrai : What reply has been made to that ?

Mr. G. S. Bajpai : They did not ask for a reply.

Mr. Lalchand Navalrai : What is the reply on that point ?

Mr. G. S. Bajpai : I am not in a position yet to give any reply to that question.

Mr. Lalchand Navalrai : What is the reason ?

Mr. G. S. Bajpai : The very simple reason, Sir, that the Bill did not originally include the licentiates, and the question whether they should be included is one of policy upon which the Government of India have not yet come to a decision.

ARMED ATTACK UPON GUARDS AT THE GATE OF THE DEOLI DETENTION CAMP.

489. ***Mr. M. Maswood Ahmad** (on behalf of Mr. Nabakumar Sing Dudhoria) : Will Government be pleased to state :

- (a) whether they have received further details of the incident of the armed attack by three so called Bengali youths upon the guards at the gate of the Deoli Detention Camp than what has already appeared in their *communiqué* on the subject ;
- (b) if the answer to part (a) is in affirmative whether they will place on the table copies of the correspondence which they have had with the authorities in Ajmer-Merwara on the subject ; and
- (c) whether they are aware that youths other than Bengalees dress themselves like Bengalees and often pass themselves off as such ?

The Honourable Mr. H. G. Haig : (a) Government have received no report subsequent to that originally sent by the Superintendent.

(b) The answer is in the negative.

(c) I was not aware of this.

HEALTH AND TREATMENT OF MR. SUBHAS CHANDRA BOSE.

490. ***Mr. K. P. Thampan** : (a) Will Government be pleased to state whether they have seen the statement made on the 5th August in the Madras Legislative Council by the Honourable the Law Member regarding the health and treatment of Mr. Subhas Chandra Bose ?

(b) Is it true that the Madras Government were instructed to keep Mr. Bose in the Penitentiary and that he should not be removed to the General Hospital ?

(c) Is it a fact that Mr. Bose is very ill and has lost 42 lbs. in weight ?

(d) Will Government please state whether Mr. Bose himself applied for transfer into the General Hospital and what was the objection to comply with his request ?

The Honourable Mr. H. G. Haig : (a) Yes.

(b), (c) and (d). Mr. Subhas Chandra Bose was transferred to the Madras Penitentiary for further diagnosis and it was not considered necessary to keep him as an in-door patient in the General Hospital, Madras, for this purpose. The final report on his health after X-Ray examination

in Madras shows that he is suffering from tuberculosis. The medical report shows that he has lost about 40 lbs. in weight. Mr. Bose did apply for transfer to the General Hospital but it is not intended to keep him in Madras.

Mr. K. P. Thampan : When once a prisoner is sent to a particular province, is it not within the discretionary power of the Government of that province to decide where he should be kept ?

The Honourable Mr. H. G. Haig : Is it the Honourable Member's suggestion that the Government of Madras are not allowed to place him there ?

Mr. K. P. Thampan : Yes, in the Madras General Hospital.

The Honourable Mr. H. G. Haig : That is not so.

Mr. B. Das : May I be permitted to say that Mr. S. C. Bose was born in Cuttack and that I welcome him to come to Orissa if Madras is refusing him ?

The Honourable Mr. H. G. Haig : I was not aware that in addition to its other merits, Orissa was regarded as a sanatorium.

Mr. K. P. Thampan : May I know whether the Government will permit him to go to some health resort in the continent of Europe if he is not improving ?

The Honourable Mr. H. G. Haig : I mentioned to the House a few days ago that a proposal for his transfer to a sanatorium in India is under consideration.

Mr. S. C. Mitra : Was there any instruction from the Government of India itself that Mr. S. C. Bose should not be taken out of the penitentiary to the civil hospital or anywhere else ?

The Honourable Mr. H. G. Haig : I have no recollection of any such instruction.

SAFETY MEASURES, ETC., BY ELECTRICITY SUPPLYING COMPANIES IN DELHI AND THE UNITED PROVINCES.

491. ***Sir Muhammad Yakub :** (a) Has the attention of Government been drawn to an article published in the *Hindustan Times*, dated the 25th February, 1932, about the Electric Power Supply, published on pages 13 and 14 of the paper ?

(b) Are Government aware that A. C. with 230 volts is used in certain parts of Delhi, Rohilkhand and in many other places in the United Provinces ?

(c) Are Government aware that the electricity supplying companies have not taken proper measures for the safety of the public in these places ?

(d) Are Government aware that lightning arrests and choking coils have not been placed at each supply centre in order to avoid danger from lightning ?

(e) Are Government aware that electricity supplying companies are charging very high prices in Delhi, Rohilkhand and other places in the United Provinces, varying between seven annas and six annas six pies per unit ?

(f) Do Government propose to take any steps in the matter ; if so, what ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) I believe that this is the case.

(c) No.

(d) Lightning arresters and choking coils have been provided in Delhi, Government have no information regarding other places.

(e) I have only information for Delhi, and the position there is not quite as stated by the Honourable Member. The rates for lighting and fans are four annas for seven months of the year and 6½ annas for the remainder. The charge for domestic heating and cooking is three annas a unit and power is supplied at still lower rates. All these rates, moreover, are subject to a discount of ten per cent. for prompt payment.

(f) No, because I am not aware of any matters requiring action by the Government of India in this connection.

Sir Muhammad Yakub : If the Government of India have made no inquiries about other places than Delhi, how are they in a position to state that the facts are not what I have stated ?

The Honourable Sir Frank Noyce : Other places than Delhi are the concern of the Local Government.

Sir Muhammad Yakub : Is the supply of electricity the concern of Local Governments or of the Government of India ?

The Honourable Sir Frank Noyce : The administration of the Electricity Act is a matter for the Local Government.

FAVOURITISM IN POSTAL DEPARTMENT IN BALUCHISTAN.

492. ***Mr. M. Maswood Ahmad :** (a) Has the attention of Government been drawn to an article entitled " Favouritism in Baluchistan " published on page 17 of the *Postal Advocate*, Delhi, July, 1931, issue ?

(b) Will Government be pleased to state whether the allegations made in the said article have been found to be correct ?

(c) Do Government propose to make inquiries into these serious allegations referred to in part (a) above and take such action as may be necessary to do justice to the aggrieved party ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) and (c). As from inquiries it has been found that the allegations were incorrect, Government do not propose to take any further action in the matter.

EMPLOYMENT OF MUSLIMS IN THE EAST INDIAN RAILWAY.

493. ***Mr. M. Maswood Ahmad :** Are Government aware that Sir Hasan Suhrawardy submitted a memorandum to the Railway Court of Inquiry regarding the present position of Muslim employment in the East

Indian Railway ? Was the memorandum considered by the Court of Enquiry ? If so, what was its decision ?

The Honourable Sir Frank Noyce : The attention of the Honourable Member is invited to the reply given by the Honourable Sir Joseph Bhore to this question, which was put by Dr. Ziauddin Ahmad in this House on the 6th April, 1932.

Mr. M. Maswood Ahmad : I am sorry, Sir, there I find one mistake. The memorandum was submitted by Mr. Shaheed Suhrawardy and not by Sir Hasan Suhrawardy, and I want to correct that mistake here.

The Honourable Sir Frank Noyce : I am sorry I was unable to catch the Honourable Member's question.

Mr. M. Maswood Ahmad : Here in the question it is stated that Sir Hasan Suhrawardy submitted a memorandum to the Railway Court of Inquiry. It was not submitted by Sir Hasan Suhrawardy.

Sir Abdulla-al-Mámün Suhrawardy : Sir Hasan Suhrawardy never submitted any memorandum to any body. I do not know why the Honourable the Interpellator persists in his misstatement.

Mr. M. Maswood Ahmad : The memorandum was submitted by Mr. Shaheed Suhrawardy and not by Sir Hasan Suhrawardy, and I want to correct that mistake, Sir.

STATE PRISONERS IN THE OLD CENTRAL JAIL, MULTAN, UNDER REGULATION III OF 1818.

494. ***Mr. M. Maswood Ahmad :** (a) Will Government please state whether it is a fact that the Government of India (Home Department) received any application dated the 1st June, 1931, regarding the state prisoners then confined in the old central jail, Multan, under Regulation III of 1818 ?

(b) Will Government please lay on the table a copy of the letter No. 13557-S. B., from C. C. Garbett, Esq., C.M.G., C.I.E., F.R.G.S., I.C.S., Chief Secretary to the Government, Punjab, dated Simla E., the 8th July, 1931, in connection with part (a) ?

The Honourable Mr. H. G. Haig : (a) An application, dated the 1st June, 1931, on behalf of some State Prisoners in the Multan Jail was received.

(b) If this relates to any letter addressed by the Government of the Punjab to the Government of India, I am afraid I am not prepared to lay a copy on the table.

EXAMINATIONS OF THE DELHI UNIVERSITY.

495. ***Mr. B. Das** (on behalf of Rao Bahadur M. C. Rajah) : (a) Is it a fact that any student who obtains forty-five per cent. of the aggregate number of marks but fails in one subject only obtaining not less than twenty-five per cent. of the marks in that subject, is declared to have passed the B.A. or B.Sc. examination in the Delhi University, if he makes up three marks in the aggregate, in addition to the forty-five per cent., of each mark by which he is short ?

(b) If so, will Government be pleased to state the number of candidates declared successful under the above provision in the statutes of the Delhi University in the years 1930, 1931 and 1932 out of the total number which would have failed otherwise ?

(c) Is there any other university in India where such a rule is in vogue ?

Mr. G. S. Bajpai : (a) Yes.

(b) A statement, giving the information asked for by the Honourable Member, is laid on the table.

(c) Yes ; a somewhat similar concession is allowed by the University of Calcutta.

Number of candidates declared successful under the rule referred to in part (a) of Rao Bahadur M. C. Rajah's question No. 495.

Year.	Number of candidates declared successful under the rule.	
	B. A.	B. Sc.
1930	2	1
1931 .. .. .	..	1
1932	2	5

Mr. Gaya Prasad Singh : Do Government propose to place the Delhi University on the same footing as the other Universities of India in the matter of introducing compartmental system of examinations.

Mr. G. S. Bajpai : Well, Sir, it is a matter which the University of Delhi must consider first.

Mr. Gaya Prasad Singh : Is it not a fact that in the absence of compartmental system of examinations for B.A., and B.Sc., the graduates of the Delhi University are placed at an unfair disadvantage as compared with the students of most of the other Universities of India ?

Mr. G. S. Bajpai : That is the Honourable Member's opinion, Sir, and I am not prepared to say either " Yes " or " No " to that.

Mr. Gaya Prasad Singh : Do Government propose to introduce the compartmental system of examinations in the Delhi University ?

Mr. G. S. Bajpai : I have already pointed out to my Honourable friend that the initiative in the matter rests with the Delhi University.

Mr. K. P. Thanpan : Is not the Delhi University an autonomous body ?

Mr. G. S. Bajpai : It is an autonomous body.

Mr. Gaya Prasad Singh : Do I understand then that the Delhi University has made no proposal to this effect at all ?

Mr. G. S. Bajpai : So far as I am aware, Sir, no such proposal has been received by the Government of India.

Dr. Ziauddin Ahmad : Will the Government be prepared to admit their proposal if it comes up from the University ?

Mr. G. S. Bajpai : The Government will consider it, but I am not prepared to say at the moment whether the proposal will be admitted.

BONUS GRANTED TO THE STAFF IN CERTAIN OFFICES FOR HEAVY SEASONAL WORK.

496. ***Mr. S. C. Mitra :** (a) Is it a fact that the Finance Department grant bonus to their staff for budget work ? Is bonus granted to the staff in other Departments for heavy seasonal work ?

(b) Is it a fact that a bonus was granted to the staff employed in the Retrenchment Office ? Will Government please state the names of men who received the bonus ? Did any gazetted officer receive the bonus ? Is it given to the gazetted officers in the Finance Department also ?

The Honourable Sir Alan Parsons : (a) Yes. In other Departments also a similar bonus is granted occasionally for sufficient reasons.

(b) Yes. Bonus was given to Messrs. B. Grice, N. N. Singh, Bishan Dass, G. B. Singh, D. S. Bhalla, C. D. Bhalla, Shah Badruddin, Bashir Ahmad, Ramji Dass and Jagannath, and Miss L. Grant. The staff of the Retrenchment Office included a permanent Superintendent lent from the Finance Department. Bonus is not given to any gazetted officer in the Finance Department for Budget work.

INDIAN CAPITAL IN THE KREUGAR MATCH SYNDICATE.

497. ***Mr. B. Das :** (a) Will Government be pleased to state if there was any adverse effect on the Indian financial market by the suicide of Mr. Irvan Kreugar, the Swedish Match King ?

(b) How much Indian capital according to Government estimate was locked up in the Kreugar Syndicate ?

The Honourable Sir Alan Parsons : (a) and (b). Government have no information how much Indian capital was invested in the various Kreugar concerns, but it must have been an insignificant portion of the total. The direct effects of the death of Mr. Kreugar on the Indian market were inappreciable.

MATCH FACTORIES IN INDIA CONTROLLED BY SWEDISH MATCH COMPANIES.

498. ***Mr. B. Das :** (a) Will Government be pleased to state how many match factories in India are controlled by the Swedish Match Companies in India, and the amount of (i) Indian and (ii) foreign capital invested in them ?

(b) Is there any change in control of these match factories since Mr. Kreugar's suicide ?

The Honourable Sir Frank Noyce : (a) So far as my information goes, there were eight match factories in India and Burma owned or controlled by Swedish match companies in 1931. I believe that one of these factories has since been closed. Particulars are not available of the Indian and foreign capital invested in these factories.

(b) Not so far as I am aware.

STATEMENT ON SOUTH AFRICA BY MR. G. S. BAJPAI.

499. ***Mr. B. Das :** Will Government be pleased to state whether they intend to carry out the promises given to the House by the Honourable Sir Fazl-i-Husain and to allot early in the session a day to discuss the statement on South Africa, that was made by Mr. G. S. Bajpai on the floor of the House on the 5th April ?

The Honourable Sir Frank Noyce (on behalf of the Leader of the House) : I would draw the attention of the Honourable Member to the answer given by me to a supplementary question asked by Mr. S. C. Mitra on this subject on 12th September.

RELATIONS OF INDIA WITH SOUTH AFRICA.

500. ***Mr. B. Das :** (a) Will Government be pleased to state if the hopeful anticipations of the Indian deputation have been observed so far by the South African Government and, if not, what are the issues on which there has been definite departure since the statement on South Africa was made ?

(b) Will Government be pleased to state the present state of cordial relations with South Africa and whether there has arisen any tension between India and South Africa as to the break in such relations ?

Mr. G. S. Bajpai : I would invite the Honourable Member's attention to the reply given by me to the short notice question by Mr. C. S. Ranga Iyer on the 12th of this month.

REPATRIATION OF INDIANS FROM SOUTH AFRICA.

501. ***Mr. B. Das :** (a) With reference to sub-paragraph 2 of paragraph 5 of the statement on South Africa on the question of assisted immigration wherein it was stated that " 80 per cent. of the Indian population was born in the Union. The recognition by the Union Government that the possibilities of this scheme are now practically exhaustive should be received with considerable relief by Indian opinion on both sides of the ocean", will Government be pleased to state the number of Indians repatriated since April last ?

(b) Is it a fact that in June last there were two shipments of 532 and 132 Indians to India ?

(c) How many of these repatriated Indians are South African born ?

Mr. G. S. Bajpai : (a) 832.

(b) Two batches left South Africa in June but the numbers were 551 and 172.

(c) 507 .

REPATRIATION OF INDIANS FROM SOUTH AFRICA.

502. *Mr. B. Das : (a) Will Government be pleased to state the repatriation figures from South Africa for 1930, 1931 and 1932 ?

(b) Will Government be pleased to state if the Government of South Africa have been exceptionally active, after the return of the Indian Deputation, to repatriate Indians ?

(c) Will Government be pleased to state in how many of these cases the returned immigrants exercised their " free will " and how often they were subjected to the influence of the " recruiters " ?

Mr. G. S. Bajpai : (a) 1,011, 1,961 and 1,399 in 1930, 1931 and 1932, respectively.

(b) The Honourable Member presumably wishes to know whether the Government of the Union have been exceptionally active in promoting assisted emigration to India since the return of the Indian Deputation. The answer to his question is in the negative. The Union Government used formerly to employ men to explain the scheme to Indians, but they have now dispensed with their services with effect from the 31st March last.

(c) So far as the Government of India are aware, Sir, the Scheme has been worked on a strictly voluntary basis.

LAND SETTLEMENT SCHEME OUTSIDE INDIA FOR INDIANS BORN IN SOUTH AFRICA.

503. *Mr. B. Das : (a) Will Government be pleased to state what further development has so far taken place regarding their agreement with South Africa (*vide* sub-paragraph 3 of paragraph 5 of the statement made by Mr. Bajpai in the Assembly on the 5th April, 1932) on the question of the land settlement scheme outside India for the South African born Indians ?

(b) Which are the countries being explored and selected for this forced expulsion of South African Indians from South Africa ?

(c) Is it a fact that private agencies and Government agencies are exploring fields in Brazil and New Guinea to settle these South African Indians ?

(d) Will Government be pleased to state if South Africa do at all intend to retain any large number of Indians in South Africa ?

Mr. G. S. Bajpai : (a), (b) and (c). The attention of the Honourable Member is invited to the answer given by me on the 12th September, to Mr. C. S. Ranga Iyer's short notice question.

(d) I would invite the attention of the Honourable Member to the relevant passage in Part III of the annexure to the Cape Town Agreement, 1927.

SEARCH BY POLICE OF A 'HINDUSTAN TIMES' REPORTER.

504. *Mr. B. Das : (a) With reference to the news published in the *Hindustan Times* of 16th August, 1932, on page 7, column 3, with head

lines " Press reporter searched ", " Police hunt for a statement ", will Government be pleased to state if Mr. Chaman Lal, the Chief Reporter of the *Hindustan Times* was searched under orders from the C. I. D. Headquarters ?

(b) Is it a fact that the Police stated that the search was carried out under section 18 of the Press Act under orders from the C. I. D. Headquarters ?

(c) Will Government be pleased to state if they are satisfied that section 18 of the Press Act does confer such powers on the police to make a personal search of press reporters ?

The Honourable Mr. H. G. Haig : With your permission, Sir, I propose to reply to questions Nos. 504 and 505, together. I am making enquiries and will lay a statement on the table in due course.

SEARCH BY POLICE OF A 'HINDUSTAN TIMES' REPORTER.

†505. ***Mr. B. Das :** (a) Will Government be pleased to state if they were not aware that the Chief Reporter of the *Hindustan Times* went to interview Dr. Kitchlew, the acting president of the Congress ?

(b) Do Government consider a press interview with Congress leaders an offence ?

(c) Could not Government have exercised press censorship on the *Hindustan Times*, instead of confiscating the reporter's interview ?

ADVISORY TRIBUNAL FOR DEFENCE AND CAPITATION CHARGES OF INDIA.

506. ***Mr. B. Das :** (a) Will Government be pleased to state whether they intend to adopt any procedure regarding official and non-official evidence before the Advisory Tribunal for defence and capitation charges of India ? If so, what ?

(b) Is it not a fact that the Tribunal will hold sittings only at London ?

(c) If the reply to part (a) is in the affirmative, what procedure do Government contemplate to adopt so that non-official evidence can be given before the Tribunal ?

Mr. G. R. F. Tottenham : (a), (b) and (c). The Tribunal will sit in London and the points in issue will be argued before it by legal counsel on briefs prepared for them by expert official advisers. As far as I am aware, no witnesses, either official or non-official, will be examined.

Mr. B. Das : Will Government take steps to place before the Tribunal the non-official view expressed on the floor of this House ?

Mr. G. R. F. Tottenham : Yes, Sir ; I have already given an undertaking to that effect—that the record of the recent debate will be forwarded to the authorities at Home. I can assure the Honourable Member that the non-official view will be placed before the Tribunal.

APPOINTMENT OF SIR DAVID PETRIE AS CHAIRMAN OF THE PUBLIC SERVICE COMMISSION.

507. ***Mr. B. Das :** (a) Will Government be pleased to state if they have appointed Sir David Petrie as the Chairman of the Public Service Commission ?

†For answer to this question, see answer to question No. 504.

(b) Is it not a fact that Sir David Petrie belongs to the Indian Police Service ?

(c) Was it not implied during the first appointment of the Public Service Commissioners that the Chairman should be taken from non-service men ?

(d) Will Government be pleased to lay on the table a copy of the rules governing the appointment of the Chairman of the Public Service Commission ?

The Honourable Mr. H. G. Haig : (a) Yes.

(b) Yes.

(c) I am aware of no such implication.

(d) The appointment is made under section 96-C of the Government of India Act. The only rules on the subject are contained in Part II of the Public Service Commission (Conditions of Service) Rules, 1926.

Sirdar Harbans Singh Brar : Is it not a fact, Sir, that the claims of a senior Indian have been ignored in making this temporary appointment ?

The Honourable Mr. H. G. Haig : An appointment, Sir, like that of Chairman of the Public Service Commission, does not go by seniority.

Mr. Gaya Prasad Singh : Then does it go on communal lines ?

The Honourable Mr. H. G. Haig : No, Sir ; the Government or rather the Secretary of State select the officer whom they consider most suitable for the post.

Mr. Gaya Prasad Singh : Who was the seniormost Member of the Public Service Commission before the appointment of Sir David Petrie ?

The Honourable Mr. H. G. Haig : I am not sure, Sir, of the seniority in date of appointment as between the other Members.

Mr. Gaya Prasad Singh : When was Sir David Petrie appointed as a Member of the Public Service Commission ?

The Honourable Mr. H. G. Haig : He was probably appointed later than any of the others.

Mr. Gaya Prasad Singh : May I take it that he was the most junior Member of the Public Service Commission when he was appointed as Chairman ?

The Honourable Mr. H. G. Haig : The Honourable Member might draw that conclusion.

Mr. Gaya Prasad Singh : It is a question of fact.

Mr. K. P. Thampan : Has Sir David Petrie any legal training or qualification ?

The Honourable Mr. H. G. Haig : No. He is not a member of the legal profession.

Mr. Gaya Prasad Singh : What was the appointment he was holding when he was appointed a member of the Public Service Commission ?

The Honourable Mr. H. G. Haig : He had completed the appointment which he held up here, and was on leave preparatory to retirement

Mr. Gaya Prasad Singh : I wanted to know what was the appointment he was holding in India in the Police Service ?

The Honourable Mr. H. G. Haig : He was Director of the Intelligence Bureau.

Mr. Gaya Prasad Singh : Oh, that is it.

Mr. S. C. Mitra : Is it the policy of the Government not to appoint an Indian as Chairman of the Public Service Commission ?

The Honourable Mr. H. G. Haig : No. There is no such policy.

Mr. S. C. Mitra : Is experience in the Police Service a necessary qualification for the Chairmanship of the Public Service Commission ?

The Honourable Mr. H. G. Haig : The Honourable Member will no doubt be aware that Sir Ross Barker was not a member of the Police Service, and I think that answers my Honourable friend's question.

Mr. S. C. Mitra : Perhaps there was not a policeman available at the time, and will the Government consider in future, that service in the police is a necessary qualification for the appointment ?

Mr. K. P. Thampan : Does not the Honourable Member think that some legal or judicial qualification is necessary in the case of the Chairman of the Public Service Commission as complicated questions of offence, punishment and dismissal connected with the services come up for decision before the Commission ?

The Honourable Mr. H. G. Haig : Many qualifications, Sir, are desirable, but one cannot say that any particular one is necessary.

Mr. Lalchand Navalrai : Being a police officer is also a necessary qualification ?

The Honourable Mr. H. G. Haig : No, Sir. That is not one of the necessary qualifications.

Mr. Lalchand Navalrai : Is it a fact that he had to be provided for as he was on leave and therefore he had been pitchforked into this appointment, or was no better man available for the job ?

The Honourable Mr. H. G. Haig : The Government, after considering the matter very carefully, came to the conclusion that Sir David Petrie was the most suitable officer for appointment to the post.

Mr. Lalchand Navalrai : For what reasons ? I am asking whether it was because he had to be provided for as he was on leave ?

The Honourable Mr. H. G. Haig : No, Sir. I have just said that it is not a question of any officer being provided for, but of very careful selection of the best man available.

Mr. S. C. Mitra : What are the educational qualifications of Sir David Petrie ? Is he a graduate or even a matriculate ?

The Honourable Mr. H. G. Haig : Certainly not of an Indian university.

Mr. Muhammad Muazzam Sahib Bahadur : Are appointments to the Public Service Commission made on the results of a competitive examination ? (Laughter.)

The Honourable Mr. H. G. Haig : No, not yet, Sir. (Laughter.)

LEAKAGE OF INFORMATION *re* THE COMMUNAL AWARD.

508. ***Mr. B. Das** : (a) Are Government aware that the Communal Award about the Punjab and Bengal was common property in Simla and in big provincial towns some ten days before the 17th August ?

(b) Have Government investigated the source of leakage of such information ?

The Honourable Mr. H. G. Haig : (a) No.

(b) Does not arise.

Mr. B. Das : May I take it that the Honourable Member's Intelligence Department was not aware of the fact that the whole of Simla knew of the fact,—that the Communal Award was common property in Simla ?

The Honourable Mr. H. G. Haig : No, Sir. I am afraid in this matter our Intelligence Service must have been at fault.

Mr. Gaya Prasad Singh : So un-intelligent ! (Laughter.)

Mr. B. Das : Will the Honourable Member kindly make enquiries as to how the Intelligence Department did not know what we all knew ?

The Honourable Mr. H. G. Haig : Is the Honourable Member prepared to assure me that he was acquainted with the whole of the Communal Award ten days before it was given ?

Mr. B. Das : The general lines were well-known all over Simla,—even at Calcutta, Allahabad and Lucknow.

The Honourable Mr. H. G. Haig : It seems strange that it was not communicated to the Press in that case.

Mr. Gaya Prasad Singh : The news probably leaked out from high sources.

RE-OPENING OF THE ANDAMANS FOR POLITICAL PRISONERS.

509. ***Mr. S. C. Mitra** : (a) Are Government aware of the fact that their decision to re-open the Andamans (which was regarded as a "Blot" on the administration and as such abandoned in 1922) for the political prisoners, after so long as ten years, has caused a deep feeling of resentment in the country against the decision amongst people of different political views ? If not, do Government propose to ascertain the views of Bengal public ? If not, why not ?

(b) Will Government be pleased to state the reasons for such a breach of the letter and spirit of a solemn and definite assurance given by Government in 1922 ?

(c) Do Government propose to place a statement containing detailed information about the plan before the public to allay the grave misgivings in the public mind ?

The Honourable Mr. H. G. Haig : (a) Government are not aware of such a feeling throughout the country as is described by the Honourable Member. I would remind him that the only convicts whose removal from Bengal to the Andamans is in contemplation are those who have been convicted in connection with terrorist outrages. The Government of India do not propose to take any special measures to ascertain the views

of the people of Bengal. Throughout they have been in the closest consultation with the Local Government.

(b) I am aware of no solemn and definite assurance given by Government in 1922, such as is referred to by the Honourable Member. I find that on the 11th March, 1921, Sir William Vincent speaking in the Legislative Assembly said that the Government of India had issued orders that all political prisoners should be immediately returned from the Andamans. That was in accordance with the policy that was being pursued of closing down the Andamans as a penal Settlement as rapidly as possible. But the Government of India have always retained discretion to send to the Andamans, if necessary, convicts whose removal from British India was considered to be in the public interest. A recommendation to this effect was in fact included in the Jail Committee's Report. It is in accordance with this principle that it has been decided to send certain of the Bengali terrorist convicts to the Andamans.

(c) No, Sir.

DEPORTATION OF POLITICAL PRISONERS TO THE ANDAMANS.

510. ***Mr. S. C. Mitra** : (a) How many of the prisoners about to be deported to the Andamans are Bengalis and how many of the Bengalis are (1) punished with transportation for life, (2) guilty of serious breach of jail discipline, (3) women prisoners, (4) detenus, (5) convicted for civil disobedience and (6) convicted for terrorist activities ?

(b) In the case of those not punished with transportation for life, are Government aware that in the absence of amendments to the Indian Penal Code, the Jails Committee in 1919 maintained that objection might reasonably be taken to a prisoner who has been sentenced by a Court to rigorous imprisonment being deported to Port Blair ?

The Honourable Mr. H. G. Haig : (a) I am afraid I cannot undertake to give detailed information about the Bengali prisoners who are being sent to the Andamans. I would only say that none are being sent who have not been convicted in connection with terrorist crime.

(b) I am aware that the point was mentioned by the Jail Committee. But they pointed out that this action was legal, a view with which the Government of India are in agreement.

Mr. K. C. Neogy : With regard to (a) of the question, is it not a fact that some of the prisoners transferred to the Andamans have been sentenced to comparatively short terms of imprisonment ?

The Honourable Mr. H. G. Haig : I am not sure about that, but the point is not the length of the sentence but the nature of the offence for which they have been convicted.

Mr. K. C. Neogy : With reference to a statement which the Honourable Member made in reply to another question a few days back, that although these prisoners were sentenced to definite terms of imprisonment, the period for which they will be confined in the Andamans will depend upon,—I really do not remember the exact words,—will depend upon the circumstances or some such thing, may I take it then that there is a possibility of these prisoners being detained in the Andamans even after their definite terms of imprisonment have been served out ?

The Honourable Mr. H. G. Haig : No, Sir. That would be an impossibility.

Mr. S. C. Mitra : Will these deportees include also women prisoners who are considered as terrorists ?

The Honourable Mr. H. G. Haig : I think the Honourable Member has a question down on that subject.

DEPORTATION OF WOMEN POLITICAL PRISONERS TO THE ANDAMANS.

511. ***Mr. S. C. Mitra :** (a) Are Government aware of the recommendation of the Indian Jails Committee, 1919-20, to exclude all female convicts from being sent to the island of Andamans on account of absence of all reformatory influences and the resulting demoralisation of prisoners ?

(b) Will Government please state what special arrangements have been made for women proposed to be sent to the Andamans as regards their location and guard for their safety while in the Andamans ?

(c) What special arrangement has been made for the protection of their female virtues in the midst of a large number of old convicts and low class guards ?

(d) Are Government aware of the Rajeswari case of Chittagong, which came to public notice and before a Criminal Court ? Will Government be pleased to state what arrangements they have made to prevent such cases of criminal assault on political women prisoners of high education and of good and respectable families while they will be kept in the Andamans ?

The Honourable Mr. H. G. Haig : (a) The Government of India are aware that the Jails Committee in paragraph 572 of their report recommended that female prisoners then in the Andamans should be brought back to India and that no further female prisoners should be deported there. This recommendation should be read with their recommendations regarding the Andamans as a whole. The Committee suggested firstly, the gradual closing down of the Settlement as accommodation became available in Indian jails by repatriating convicts to India and by deporting no more prisoners from India and, secondly, the maintenance of a jail at Port Blair for a limited number of prisoners whose removal from British India is considered to be in the public interest. As an exception to this policy of gradual removal they proposed that all the women prisoners could be repatriated at once without causing any practical difficulty on the score of accommodation in Indian jails as their number was small. The Government of India agreed to this recommendation as the repatriation of the female prisoners would make available the female jail at South Point for the accommodation of male convicts. There was also the fact that the conditions described in paragraph 551 of the Jail Committee's Report made it at that time undesirable that women prisoners should be retained in the Andamans, but these conditions no longer exist and the features of the Settlement have profoundly changed since the Jail Committee wrote their report.

(b), (c) and (d). The women prisoners sent to the Andamans will be confined in a wing of the Cellular Jail, Port Blair, set apart for female prisoners and will be entirely separate from other prisoners in the jail and from the settlement. The apprehension expressed by the Honourable

Member in part (c) is unfounded, since a female staff is in charge, and male convict warders are not allowed within the wing set aside for female prisoners.

Mr. S. G. Jog : Is it a fact that any prisoners not detained under this Act are being sent to the Andamans from the Bombay Presidency ?

The Honourable Mr. H. G. Haig : What Act does the Honourable Member refer to ?

Mr. S. G. Jog : I am talking of regular prisoners. I refer to Mr. P. M. Bapat who is undergoing sentence in the Bombay Presidency and he is nearly finishing his sentence. It is rumoured that he is to be transferred to the Andamans.

The Honourable Mr. H. G. Haig : Certain prisoners convicted of terrorist offences are being transferred to the Andamans. Otherwise the ordinary rules are being observed. From certain provinces certain convicts are sent even now in the normal course to the Andamans. Of what offence was Mr. Bapat convicted ?

Mr. S. G. Jog : The prisoner I am referring to was convicted under section 124-A for seven years.

The Honourable Mr. H. G. Haig : I have no information about any such proposal.

Mr. S. G. Jog : Will the Honourable Member kindly find out some information because there is some feeling in this matter in the Bombay Presidency on account of a thick rumour that he is going to be transferred from the Bombay Presidency.

The Honourable Mr. H. G. Haig : I am quite prepared to ascertain the facts.

DEPORTATION OF DETENUS AND CIVIL DISOBEDIENCE MOVEMENT PRISONERS TO THE ANDAMANS.

512. ***Mr. S. C. Mitra :** (a) Is it a fact that detenus and prisoners convicted for civil disobedience are being sent to the Andamans ? Are Government aware that Sir Samuel Hoare made a statement in Parliament, that only prisoners convicted for terrorist crime would be deported to the Andamans ? If so, will Government be pleased to state whether in the face of the Secretary of State's statement Government propose to deport detenus and prisoners convicted for civil disobedience ? If so, why ?

(b) Will Government be pleased to state whether proper arrangements have been made for the accommodation of the prisoners proposed to be sent to the Andamans ?

(c) Will they please state whether such deportees will be confined to the Cellular and Associated Jail at Port Blair or will they be made to live in the society of the criminal prisoners now living there allowing them close relationship with the men in the settlement ? In case of the latter, are Government aware of the grave risk of demoralisation of the deportees, who are mostly of young age ?

The Honourable Mr. H. G. Haig : (a) The Honourable Member is under a complete misapprehension. The Government of India's policy

is strictly in accordance with the statement made by the Secretary of State in Parliament. Detenus and prisoners convicted for civil disobedience are not being deported to the Andamans.

(b) Adequate arrangements are being made in consultation with the Government of Bengal and the Chief Commissioner, Andamans.

(c) The prisoners will be confined in the Cellular Jail, entirely segregated from other prisoners and removed from all contact with the settlement. For this policy there are other reasons besides those suggested by the Honourable Member.

Mr. D. K. Lahiri Chaudhary : Will the Honourable Member state the other reasons ?

The Honourable Mr. H. G. Haig : We think that there is some possibility of contamination working in the opposite direction.

Mr. B. Das : Will the Honourable Member give me an assurance that every case of a terrorist prisoner to be deported to Andamans will be examined by the Honourable Member himself ?

The Honourable Mr. H. G. Haig : No, Sir. I do not examine every case myself.

Mr. B. Das : Would it not be better to allow the Government of India to exercise some check over the recommendations of Provincial Governments about transportation ?

The Honourable Mr. H. G. Haig : We are concerned fortunately in this matter with only one Provincial Government and the general principle is very well understood between the Government of India and the Government of Bengal. It is not necessary for the Government of India to go into every individual case.

Mr. B. Das : May I just remind the Honourable Member of the particular case referred to by Mr. S. G. Jog ? I know Mr. Bapat. He was at times accused of anarchist connection.

The Honourable Mr. H. G. Haig : That, Sir, was quite a different case. No one apparently has suggested that Mr. Bapat was convicted of a terrorist offence.

Mr. K. C. Neogy : Have the Government formulated a different set of rules for the guidance of the prison authorities in the Andamans, which will apply to the case of the terrorist prisoners ?

The Honourable Mr. H. G. Haig : There is no separate set of rules, Sir, except that they will enjoy the privileges of classification which apply to ordinary prisoners in the jails in India.

FACILITIES FOR POLITICAL PRISONERS IN THE ANDAMANS.

513. ***Mr. S. C. Mitra :** Will Government be pleased to state whether proper arrangements have been made in the Andamans providing adequate number of staff and proper equipment of residences and hospitals, the absence of which was so strongly criticised by the members of the Indian Jails Committee, 1919-20 ?

The Honourable Mr. H. G. Haig : The answer is in the affirmative. The settlement is provided with an adequate and competent Medical Staff, and well equipped hospitals.

MEASURES TO COMBAT HIGH DEATH RATE IN THE ANDAMANS.

514. ***Mr. S. C. Mitra** : What measures have been taken to preserve health and to remedy the high death rate which prevailed in the Andamans ? Is it a fact that this was the strong reason for abolishing the penal settlement ?

The Honourable Mr. H. G. Haig : With your permission, Sir, I will reply to questions Nos. 514 and 515, together. The Government of India have taken all possible measures to improve the health of the settlement to which they attach great importance. Medical facilities are available within a few miles of every village and adequately equipped hospitals have been provided. Health statistics show a steady change for the better. The principal measure taken to check malaria has been the reclamation of the salt swamps, the chief breeding ground of the mosquito, at a total cost of some 23 lakhs of rupees. The greater number of breeding grounds have now been eliminated from the vicinity of the settlement.

Mr. Gaya Prasad Singh : Is it a fact that the measures taken to reclaim these salt swamp has resulted in only an infinitesimal portion of the land being reclaimed and that the major portion of the land is still in an insanitary and unhealthy condition ?

The Honourable Mr. H. G. Haig : I understand that the Andamans cover a large area but so far as the inhabited portion is concerned, the measures taken, have, I believe, effected a marked improvement in health conditions.

Mr. Gaya Prasad Singh : In the majority of the inhabited areas ?

The Honourable Mr. H. G. Haig : In the inhabited area, yes.

MEASURES TO COMBAT MALARIA IN THE ANDAMANS.

†515. ***Mr. S. C. Mitra** : What measures have been taken to check the unusually heavy incidence of malaria in the Andamans ? How far has the process of reclaiming salt swamps or of shutting out salt water by means of sluice gates as recommended by the Indian Jails Committee been carried out and with what result ?

COOKING OF FOOD FOR PRISONERS IN THE ANDAMANS.

516. ***Mr. S. C. Mitra** : What special arrangement has been made in the Andamans about the cooking of food for prisoners belonging to the different provinces ?

The Honourable Mr. H. G. Haig : The food for all prisoners confined in the Cellular Jail is normally cooked by convict Brahmin cooks from the United Provinces. Two Bengali convict cooks, however, who volunteered for the Andamans, have been transferred there, and will cook exclusively for the Bengali terrorist prisoners in the wing of the Jail which has been set apart for them.

ARRANGEMENTS FOR THE SUPPLY OF REFORMATORY INFLUENCES IN THE ANDAMANS.

517. ***Mr. S. C. Mitra** : What arrangements have been made to supply reformatory influences to the deportees in the Andaman islands in the

†For answer to this question, see answer to question No. 514.

form of (1) religious teachers, (2) educational facilities, (3) libraries and other institutions, which will fit prisoners for a healthy moral life as members of society on eventual release? Are Government aware that the absence of those facilities was one of the grounds for the Jail Committee's recommendation to abolish the penal settlement?

The Honourable Mr. H. G. Haig : I presume the Honourable Member has in view the conditions described in paragraph 549 of the Indian Jail Committee's Report. I need hardly say that the conditions since the Report was written have been altered completely. There are a number of places of worship, and schools are provided for both boys and girls in various places. These conditions, as no doubt the Honourable Member understands, do not apply to the Bengali prisoners who are being sent to the Andamans. They will be detained in the Cellular Jail under conditions similar to those obtaining in a jail in India.

APPOINTMENT OF A VISITING BOARD FOR THE ANDAMANS.

518. ***Mr. S. C. Mitra :** (a) Will Government be pleased to state whether a visiting board has been appointed to restrain the prison authorities from maltreating the prisoners and to see that the reforms considered so urgently necessary by the Indian Jails Committee in the Andamans are properly carried out?

(b) In the absence of a non-official visiting board what opportunities would the prisoners have of bringing their grievances to the notice of the higher authorities and getting proper redress?

(c) Will Government please state whether special arrangements have been made to obviate the difficulty of the control and supervision of the work effectively, in view of the great distance of the Andamans from the Headquarters? If so, what?

The Honourable Mr. H. G. Haig : (a) It is not possible to constitute a visiting board for the jail at Port Blair owing to the absence of local non-officials qualified to be members of such a board, but I must definitely repudiate the suggestion that without a visiting board the prison authorities are likely to maltreat prisoners. The prevention of ill-treatment is secured by the ordinary discipline of the jail.

(b) and (c). The Honourable Member is under a misapprehension. Prisoners are not denied an opportunity of bringing their grievances to the notice of higher authorities. Convicts in the jail can make representations through the Superintendent to the Chief Commissioner. Those out in the settlement can petition any higher authority up to the Chief Commissioner, on any matter.

Mr. H. P. Mody : Do the Government of India consider it right and proper that they should do away with any sort of control over the jail administration in the Andamans? What arrangements have they made to see that that administration is carried out on humane lines?

The Honourable Mr. H. G. Haig : The Honourable Member suggests that the Government of India are doing away with all control over the Andamans. I have just explained that it is not possible to have that particular form of control in the Andamans and that it never has been possible.

Mr. H. P. Mody : What sort of control exists over the Andaman administration other than that of the jail authorities. Is there any sort of supervision exercised from any quarter over the jail administration of the Andamans ?

The Honourable Mr. H. G. Haig : The important control over the conditions in a jail is the control of the Superintendent and that exists in the Andamans as it exists elsewhere.

Mr. D. K. Lahiri Chaudhury : Are the Government of India aware
12 Noon. that there is a very strong feeling throughout the country about the maladministration of the jails ?

The Honourable Mr. H. G. Haig : I am aware, Sir, that certain allegations are made in connection with prisoners who have been convicted in connection with the civil disobedience movement.

Mr. H. P. Mody : Do the Government of India regard as adequate the control of the Superintendent of a jail over the prisoners ?

The Honourable Mr. H. G. Haig : The Honourable Member seems to be under some misapprehension as to what constitutes control. The control in every jail is the control of the responsible officials.

Mr. H. P. Mody : And what about checks and supervision ?

The Honourable Mr. H. G. Haig : It is also provided no doubt that there should be a Board of visitors which visits the jail perhaps once a month, but that is not the real control that is exercised over the jails.

STATEMENT WITH REGARD TO THE TREATMENT OF MR. GANDHI.

The Honourable Mr. H. G. Haig (Home Member) : Sir, with your permission, I should like to acquaint the House with certain developments in connection with the Government's intentions with regard to the treatment of Mr. Gandhi. In the statement which I made in this House on the 15th September, it was announced that Government had decided, as soon as Mr. Gandhi actually begins his fast, he should be removed from the jail to a suitable place of private residence, and that the only restriction that would be imposed upon him would be that he should remain there. The intention was that he should in this way be accorded full facilities for discussing the problem of the Depressed Classes and for endeavouring to effect an agreement with them.

Mr. Gandhi has addressed the following telegram to the Private Secretary to H. E. the Viceroy :

"Have just read with considerable pain announcement of Government's decision to remove me on commencement of contemplated fast to unknown private residence under certain restrictions. To avoid unnecessary trouble and unnecessary public expense, also unnecessary worry to myself, I would ask Government not to disturb me, for I will be unable to conform to any conditions as to movement from place to place or otherwise that may be attached to foreshadowed release."

Government, while regretting Mr. Gandhi's decision, have no wish to force upon him arrangements which are distasteful to him. He will, therefore, in accordance with his request, be allowed to remain undisturbed in the Yeravada Jail. At the same time, the Government are

most anxious that this change of plan should not affect the opportunities for discussion of the Depressed Classes problem, which, they had contemplated, should be available for him. They have, therefore, decided that, unless subsequent developments render any change necessary, he should receive in the jail all reasonable facilities for private interviews with such persons or deputations as he may wish to see, and that there should be no restriction on his correspondence. (Loud Applause.)

THE CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : Sir, on the last occasion I was referring to the statement of my Honourable friend, Kunwar Raghbir Singh, that in the constituency, from which he came, the Brahmins have mostly adopted the custom of post-puberty marriage and that, therefore, the provision for exempting Brahmins from the Bill, that I have now asked this House to be taken into consideration, would cause hardship to them. Now, what I want to explain in regard to that provision is, that where there is any community in British India which has adopted the system of post-puberty marriage including the Brahmin community, that community is not going to be affected by my Bill. All that I want to do is that in British India, if there is a Brahmin community or a Vaishya community or any other communities that may like to come in, which are governed by Shastras which, they believe, prohibit them from contracting post-puberty marriages, my Bill seeks to exempt them the penalties of the Sarda Act. That is all that my Bill seeks to enforce. I had expressed my surprise that in Muttra, one of the holiest of places in Northern India, the Brahmins of all communities should have adopted the system of post-puberty marriages as a custom, and my Honourable friend, Mr. Jadhav, also interjected by saying that throughout the Maharashtra the same thing has happened. Now I do not know anything about Maharashtra, but only three days before Mr. Jadhav delivered his speech here, a resolution had been sent to me, passed by the Brahmin Maharashtra Provincial Swarajya Sangha which records its strong protest against the enactment of the Sarda Act and expresses its firm opinion that it should be repealed immediately, and the resolution then proceeded to support my Bill. A work of supererogatum. The facts, therefore, Sir, are overwhelming in my favour if the Maharashtra Brahmins had adopted post-puberty marriages on a large scale. That resolution is open to my friend's inspection if he cares to see it.

Mr. B. V. Jadhav (Bombay Central Division : Non-Muhammadan Rural) : I know who the people are who framed and passed that resolution.

Raja Bahadur G. Krishnamachariar : While, therefore, any community including the Brahmins which has adopted this post-puberty marriage custom will in no way be affected, the whole trouble is with reference to those who believe that post-puberty marriages are against the Shastras, that it is a sin to contract a marriage after a girl has attained puberty, and that the father and others incur the greatest penalty if the marriage of a girl is not celebrated before her puberty. Now, Sir, with regard to that I have already cited the opinion of one of the most eminent Law Members of the Government of India regarding the true nature of a Hindu

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marriage and I have also cited the Queen's Proclamation and the Parliamentary Statutes whereby the system of Hindu marriage has been protected against interference by the State. Now there are one or two documents to which I would very respectfully invite the attention of this House, and the first and the most important is the proclamation by Lord Canning; this proclamation was ready one year before the Queen's Proclamation. We all know about the story of the greased cartridges and how they were supposed to be one of the causes of the Mutiny. Now, at that time, when the whole of India was in a state of turmoil, Lord Canning issued this proclamation :

" The Government have invariably treated the religious feelings of all its subjects with the greatest respect. The Governor General in Council has declared that it will never cease to do so. He now repeats that decision and emphatically proclaims that the Government of India entertains no desire to interfere with their religion or caste and that nothing has been or will be done by the Government of India to affect the free exercise of religion or caste by every class of people."

Now, at the time when Lord Canning issued that proclamation, the Government of India believed, if I may say so, that they were not quite safe in their places and that any moment they might get into very serious trouble.

Now, Sir, from that day up to the year 1920, that is practically up to the introduction of the new Reforms, the Government of India have consistently and, without any exception, acted according to that principle. Now, that principle has been put in terse language by Sir Reginald Craddock as follows :

" It has been an article of faith with the British Government to hold aloof from any interference with the religion or social customs which are closely intermixed with Religion and Government in this matter occupy a position of trust (*mark these words*) to the many millions who profess these very creeds."

I shall make use of the words " Government occupy a position of trust " in connection with my later submission that I shall make in this House. Now, Sir, although there may appear to have been some vacillation regarding this principle at the time when the Honourable Mr. Sarda introduced his Bill and when it was being discussed, the present Law Member has, in a speech which he delivered on the 3rd February, 1931, made the position quite clear in the following words :

" We have got two ancient codes of Law in this country. Those systems of Law, the Hindu and the Muslim systems of Law, have preserved Hindu society and the Muslim society through all the centuries. Do not play with these systems of Law by bringing forward this sort of piecemeal legislation. It is destructive of the whole structure which has preserved these societies for all these long centuries. It undermines the very foundation upon which these social institutions are based and the institution of marriage is one of the fundamental bases of their foundation."

Now, Sir, those words were followed by an eloquent appeal not to play with the laws relating to marriage and this Assembly promptly responded to the appeal by rejecting summarily the Bill that was then before it. The position, Sir, to sum up, is this, that for 150 years, practically from the time of George III, the Government have been acting upon the principle of non-interference with religion. Why, then, did they do it in the case of the Sarda Act ? It cannot be said that it is not against the principles of the Hindu religion, because I will refer you to the minute of dissent recorded

by Pandit Madan Mohan Malaviya who did not oppose the last Bill. All that he said was that if, instead of 14 years, the age was fixed at 12, he was quite willing to agree to that whole Bill. Pandit Madan Mohan Malaviya, as we all know, was a very respected Member of this Assembly and his words carried great weight on questions of Hindu law and the rites and ceremonies.

This is what he says :

“ To make a marriage above the age of 12 and below the age of 14 punishable by law will be a violent interference with the Hindu religion.”

There is only one more quotation that I should like to make in this connection and that is the opinion of a stranger. He does not belong to the Hindu society ; he is not an orthodox Brahmin and he did not come with any mark on his forehead in order to show his triumph or discomfiture or his backwardness. His name is Brailsford. He came down to India in order to find out the conditions at the time when Miss Mayo did us the honour of publishing her book against us. Referring to the Sarda Act, he says :

“ It meant a break with organised religion to which in Catholic Countries we should find a parallel only after a political revolution ; more startling still that this defiance of revealed religion and the Scriptures could be launched while the masses are still submissive to its teaching.”

So, Sir, our only fault is that we did not start a political revolution against the principles of the Sarda Act. The result is that my Honourable friend, the Home Member, who was very courteous in his interview, told us—where is the agitation, who are agitating ? He was perfectly right. If we had started a political revolution and if a few heads had been broken at each place, probably the agitation would have been recognised just as the Civil Disobedience Movement has been recognised by Government now. Unfortunately, the orthodox classes and masses, who constitute 90 per cent. of the community, relied upon the trust that Sir Reginald Craddock declared to the world the Government of India held in respect of these people and believing in that trust. They said, what is the use of agitating ; the Government would look after our interests. Now, Sir, that very Government threw their trust back on God Almighty and have passed a law interfering with our religion. Apart from the compliments that my Honourable friend, Sir Hari Singh Gour, has heaped upon my head, the Honourable the Home Member asked me very quietly where is your agitation ? This he did, Sir, in such a persuasive way that, if the subject was less serious, I would have withdrawn my Bill and gone home. And all this because I did not break my head or the heads of others ! That is the position, Sir. The point is that for 150 years you have ruled in this country without interfering with our religion. How is it, then, that you have interfered now ? There is no question you have done so now and I have adduced proofs as above. In spite of all the experience that I have had during the last 35 years, it is impossible for me to produce any more evidence in order to prove this, because proof is not a mathematical certainty ; it is the belief in the existence of a certain state of things by reasonable men who are not prejudiced either way. Well, Sir, I cannot produce any more proof regarding that. So far as I am concerned, I must say that it is impossible for anybody to prove that the Sarda Act is not an interference with the Hindu religion. Why did they, then, interfere ? Is it because they were oppressed by this scurrilous pamphlet of Miss Mayo ? There

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was a little bit of light let into this mystery when the Sarda Bill was being discussed. An orthodox deputation came from Bengal to the then Home Member. The Home Member said : " What can we do ? There is a pressure from England and we have been asked not to oppose this Bill." He did not say so in so many words, but substantially this is what the Honourable the Home Member said at the time in answer to the deputation that came from Bengal. Sir, I am not concerned with what they do or say ? These old faddists in England who have got plenty of money, who have got nothing to do, who would not look to the big slums in the East end of London, who would not, in the words of Gandhiji, relieve the suffering of their own people ; but their sympathies have gone six thousand miles away towards people whose habits are different, whose views are quite different and whose outlook on life is quite different and whom they do not understand except through what their missionaries tell them for the purpose of making money. Now, Sir, I have no quarrel with them—they are very amiable men, but these missionaries have got to live. They were going to convert the whole of India into Christianity in one day. According to the latest Census report, there are 65 lakhs of old maids among them and these busy ladies say, ' we must reform the Hindu society ' and, I ask, are the Government going to believe all that they say and believe them ? I am not concerned with this or that or any other. I am only concerned with one thing, that is, are they or are they not going to respect their pledges ? Are they going to yield to the croaking of faddists in England who do not understand what is expected of them ? When they open their eyes later on, they will find their Empire is in danger and probably it will be lost. Because, these pledges are even more sacred and even Government might not play with these even when you want to meet an agitation like that of Miss Mayo. In the olden days, we had one of the most distinguished, one of the most Christian Viceroys that ever came to India, the Marquis of Ripon. During his time, there was a very violent agitation which we all know as the Ilbert Bill agitation ; at that time, there was a gentleman who was a Member of the Imperial Council as it then was. Unfortunately, he was the Collector of my District, the Honourable Mr. Thomas, and he repudiated the pledges solemnly made by previous Government. He said, " Oh ! they were all diplomatic documents, they are not in any way binding ". The Viceroy pulled himself up to his full height, it was the Marquis of Ripon, and this is what he said :

" Any attempt to whittle it down, if accepted by the Government of England, would do more harm than anything else could possibly do to strike at the root of our power and to destroy our just influence, because that power and that influence rest upon the conviction of our good faith more than upon any other foundation, more than upon the valour of our soldiers and the reputation of our arms".....
 " I have read in a book, the authority of which the Honourable Mr. Thomas will admit that ' Righteousness exalteth a nation ' and my study of history has led me to the conclusion that it is not by the force of her armies or by the might of her soldiery that a great Empire is permanently maintained, but that it is by the righteousness of her laws and by her respect for the principles of justice. To believe otherwise appears to me to assume that there is not a God in Heaven who rules over the affairs of men, and who can punish injustice and iniquity in nations as surely as in the individuals of whom they are composed ".

So that, Sir, in those eloquent words, invoking the God Almighty and reminding the Government of India of the numerous pledges, pledges after pledges that have been made and asseverations and assertions that were

made up to the present day, I say in the name of all that, do not interfere with our religion and if you have once done so, please set things right now. Or, is it, apart from all these minor considerations, that you have changed your policy. Have you now swerved from the position that you took at the time when you knew that these various communities and creeds might give you trouble and might not enable you to fix up your power unshaken, or have you changed your view? I do not mind your changing your views. By all means do change your views, but for Heaven's sake, please say, "I do not care, I am going to interfere with religion". Let the large mass of the Indian population know that the British Government have changed their policy and that they will no longer care for the religion of their vast Indian subjects, but that if the Government are pressed by a Miss Mayo or by some other busy-body like Miss Rathbone if the Government are going to be pressed by these ladies they are going to interfere with religion; let the Indians know all these. I want an answer now or hereafter on the numerous occasions that might arise in the course of the discussion on this and other Bills whether Government have changed their views, have they made up their minds to interfere with religion. I do not mind. I shall not be sorry. I shall probably not be living when the results of that change will come on. But there is a God in Heaven who will punish the injustice in any nation in the same way as in individuals. Then Nemesis is bound to overtake them. Sir, the Muhammadans have been accused of fanaticism, they have been accused of compulsorily converting their subjects when they were the Rulers of the land. But, this is a slanderous lie in the face of what is said in the Koran. There are only two matters that I would invite the attention of the Government to, in order to show how their predecessors, the Muhammadan rulers, who are supposed to be fanatic, and who perhaps did show fanaticism on certain occasions, acted as regards religious rights. The first is the provision in the Muhammadan law about *Zimmis* who are the non-Muhammadan subjects of Muhammadan countries. The Prophet and, after him, the holy men who were the authors of the traditions (Hadis) have distinctly declared: "Do not lay your hands upon the properties, do not go and interfere with the religion, of your subjects". I have some knowledge of Muhammadan law both in its advocacy as well as in its administration and I know there is nothing in the Muhammadan law which enjoins the interference with the religion of other people. There is another matter, and I do not know if the attention of the Honourable Members has ever been attracted to it, that is, the institutes of Tamerlane. Probably all people know him only as the worst tyrant and nobody has a good word to say about him anymore than that. But there is a book called the institutes of Tamerlane where twelve golden principles have been enunciated by him for the edification of his successors. I should very much like those responsible for the Government of India to turn their attention to those institutes of Tamerlane and review their principles of governing, though it would be rather a peculiar place to go to in order to learn their principles of governing. What does Tamerlane say? He says, 'I enjoin upon my descendants that if they want to keep up the inheritance that I have created, with such great trouble, for them, they should not interfere with the religion of any country'. Now, Sir, a reference to that would be found in the speeches on the Impeachment of Warren Hastings, the official edition published by the India Office. There you find all these things, so that what I say is this, 'do not interfere lightly with our religion'. If you are going to act as a strong Government which have absolutely nothing

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to fear, correct your mistake which you once made. But then they say, "this is not the first time we have interfered with religion, when the situation arose in the olden days, we have done that". Sir, I do not go very much into ancient historical precedents. I will go to the Age of Consent Act, i.e., the amendment to the Penal Code in 1891. I do not want to waste much of the time of the House by unnecessarily referring to the laws relating to the abolition of *Sati* and to the Widow Re-marriage and all other Acts. I have got quotations relating to all these, but I shall not waste the time of the House by reading all these. I will straightaway go to the Age of Consent Bill. But, before I do so, I have to refer to a committee to which my Honourable friend gave a very good certificate in the previous discussion. Now, the Age of Consent Committee say a few words in regard to those who supported this Bill. Two propositions have been laid down by the Age of Consent Committee which I hope my Honourable friends who do not agree with me will note, namely, the fact that you have interfered on previous occasions even in matters of religion is absolutely no ground why you should again interfere in the matter of religion. That is the first proposition laid down at page 101 of the Age of Consent Committee Report. The next proposition which they have made is this, it is perfectly true that the Government of India have professed to interfere in matters affecting religion, but they interfered only with civil rights, they never interfere with religious rites and ceremonies. All that they did was to interfere with the civil rights that flowed from marriage and other laws like these. You will find a reference to this at page 105 of the Age of Consent Committee's Report.

Now we all know the agitation that took place at the time when this Age of Consent Bill was being discussed. I will only quote two or three sentences, because they are very much apropos of the present position and of the statement made by the Honourable the Home Member that after all the evidence that they collected they found that the evil existed. This is what His Excellency Lord Lansdowne said at that time :

"In cases where demands preferred in the name of religion would lead to practices inconsistent with individual safety and the public peace and condemned by every system of law and morality in the world, it is religion and not morality that must give way."

"Practices inconsistent with individual safety and the public peace and condemned by every system of law and morality in the world" cannot be advocated by any religion. We cannot imagine that a religion which professes to emanate from God Almighty would encourage acts condemned by every system of law and morality because these are fundamental eternities. They are eternal verities and they are not changed by time, circumstances or climate, just like the precept "Speak the truth", which is an eternal verity which holds true since creation right up to now. This marriage and this betrothal which are laid down by the Shastras which some people believe as revealed truths, can they be classed as practices condemned by every system of law and morality? If you can honestly say so, if you can get a body of reasonable men who can say that this custom is one which is condemned by every system of law and morality in the world, by all means put a stop to it and I shall be the first person to put down my signature to it.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : What about the finding of the members of the committee who reported on the matter ?

Raja Bahadur G. Krishnamachariar : I do not know what they found and I am not sure at all that they found anything except that they made a *golmal* of everything without themselves understanding it.

Then Lord Lansdowne goes on :

“ In cases where there is a conflict between the interests of religion and those of morality the legislature is bound to distinguish, if it can, between essentials and non-essentials, between the great fundamental principles of the religion concerned and the subsidiary beliefs and reactionary dogmas which have accidentally grown around them.”

I close with that. These are the two conditions upon which His Excellency Lord Lansdowne supported the Age of Consent Bill. Is this or is this not fundamental ? Or is it only a non-essential ? Who found this out ? Who tried to find it out ? I have got the greatest regard for my friend Mr. Sarda, but I have yet to learn that he is a serious student of the Shastras and he knows the Shastras to the extent to which you ought to know them. It is not an attack upon him. I do not know so many things, and my Honourable friends here do not know so many things. It is not an attack upon them. We are all educated in a certain line, but if you profess to tackle Hindu law, if you profess to say that what exists is not correct, if you want to claim immortality by changing the law which has been in existence for five thousand years and more and if that is your ambition, you must understand the law yourself. You must be able, in the words of Lord Lansdowne, “ to distinguish between the non-essentials and the essentials ”. Then say to the world that it is not obligatory according to your religion and therefore you are going to change it. If you do that, you will be perfectly in order and we shall have no objection. But no such attempt has been made ; whereas the extent of knowledge that my friend Mr. Sarda exhibited, the extent of knowledge which our friends in the Select Committee still further exhibited, unfortunately to their great discredit, is that a very important verse which occurs in at least six *Smritis* has been held by Mr. Sarda to be based on a school text-book, put up by some malicious man who I suppose was hungry at the time and did not know what to do and therefore concocted this *sloka* and put it there. No, Sir, that is not the way in which to tackle an ancient religion. In the eloquent words of the present Law Member, do not go and play with a religion which has kept up your society all these centuries.

Now, Sir, that is so far as the religious aspect of the case is concerned. My Honourable friend, the Home Member, I am afraid, has not been served properly. I do not think he would have had any time to delve into the whole past history of the Bill deeply. So he must have received a brief, and that brief, whoever prepared it, did not unfortunately serve him rightly when he said that this Sarda Bill was proceeded with with the same caution that Sir James Crerar said should be followed at the time when the Bill was introduced. I have already read the passage from his speech and I will not repeat it. What happened was this. The Legislative Assembly declined to allow the Bill to be circulated and so the Bill went to the Select Committee, and the Select Committee

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had before it certain opinions collected by Government. In answer to a question that I put to Government early last year as to the object with which these opinions are collected when a Bill of this nature is introduced, it was said that it was only to determine what the attitude of Government shall be. It is therefore not for the purpose of finding out whether the Bill is an essentially necessary doctrine of Hindu law or whether it is demanded of the people. Therefore they go to the Local Government who give some sort of opinion, and but for Miss Mayo's interference they would have followed the Local Government's opinions. The opinions they collected are generally of men who *a priori* would immediately agree to it, enlightened men who have travelled all over the country and who say that this country is going from bad to worse, men whose predilections are in favour of these reforms; and it is only these gentlemen who, because they are well-known or because they shout the loudest, get these references. And even of these persons to whom the Bill was referred, they were not all unanimous with regard to the Bill. The result was that my friend Mr. Sarda's Bill was thoroughly condemned. I ought not, really speaking, in justice to Mr. Sarda, complain against his original Bill, because he proceeded then with a great deal of consideration for the views which I have the honour or misfortune to represent in this House to-day. He said that according to his own reading of the Shastras they lay down a certain thing, but that the orthodox community held different views and he was not going to tread upon their corns; so he gave them a limit of 11 years and even then he would give discretion to the court to excuse or not to excuse if there was any conscientious objection. That was the Bill that my friend, Mr. Sarda, introduced; and if unfortunately he had not proceeded further and declared that a marriage performed in that manner was invalid,—a thing which you can never declare,—if he had not done that, his Bill would have gone through. There would still be agitation; men like myself, back numbers, perhaps, would still object that the Government of India are violating their pledges; but, so far as the present state of the community is concerned, it would not affect them much, because I have absolutely no objection from my place in this House to accept that at least 80 per cent. of the marriages take place after the girl attains the age of 11. That Bill was wiped out; and the wise acres of the Select Committee said that because some men, some half a dozen people said: "this declaration of invalidity of marriage will not do; punish them all", these people grasped the idea and they said "All right; we will make it a penal business"; and it is that penal business that was again referred to the country; to whom? to the missionaries and to all these enlightened gentlemen—very good and estimable gentlemen, who probably are superior in intelligence and position and rank and wealth and everything to me, but unfortunately utterly unfit to give an expression of opinion on this point. I am not exaggerating; by temperament and by training I am not given to exaggeration; the opinions are all here collected; not many; you can dispose of them in a morning's sitting if you sit and read the whole thing; and that is the Bill that has been circulated for opinion; and that is what my Honourable friend claimed to have been acting with the greatest caution. There is only one passage that I would invite his attention to. I know he has got very great regard and rightly too for his predecessor and perhaps he

will put that regard into practice when he finds out what he really thought about the opinions that had been collected regarding this Act :

“ The most important consideration therefore is whether the principle of the Bill has secured support or is likely to secure the support of a sufficiently large majority of the Indian public.”

This was in 1921, when Mr. Crerar, as he then was, was Secretary to the Bombay Government, and was writing as the mouth piece of that Government far away from the turmoil of the Mayos and Rathbones :

“ That it has secured such support cannot at present be admitted, as there has been no referendum to the people on the issue. Whether it is likely to secure such support can only be decided when there has been sufficient opportunity for the expression of opinion. I am to observe that the opinions actually obtained by the Government of Bombay are fairly evenly divided, but I am also to observe that these opinions have been sought for in quarters likely *a priori* to be most favourable to the Bill, *viz.*, among some of the most enlightened and advanced elements of the community and amongst those who are most likely to be influenced by considerations of legislative theory rather than by sentiment or religious conviction. There can be little doubt that effective support of the Bill will come from a very limited section of the community. For their enlightenment and desire for progress, Government must have every consideration and sympathy. On the other hand, Government must consider closely their own position and that of the general public. It would, in the opinion of the Governor in Council, be a dereliction of duty”—(*I want my Honourable friend to listen to these words*)—“ on their part to support legislation so fundamentally affecting the prejudices and sentiments of a vast majority of the population without the clearest and most convincing proof that not only will such legislation be acceptable but that it is urgently demanded.

I am to state that for the purposes of the present reference consultation of opinion has necessarily been of an exceedingly restricted character.”

I do not want to prolong the agony, but this is rather important :

“ For this purpose, the ordinary procedure of publication and of consultation with a few selected and judicial and executive authorities and even adding to this (what has not been feasible on the present reference) the consultation of particular individuals and unofficial associations and organisations is quite inadequate. A much more extensive invitation of the public opinion of all sections is necessary.”

I shall only lay stress upon this point :

“ In order to enlist the support of Government, the promoters of the Bill, after conducting in the interval a campaign of persuasion and instruction, should lay it before their constituents at the next elections of the Local Legislative Councils and the Legislative Assembly. If the response is in the affirmative, it would then be possible for Government to reconsider the position.”

If that has been done, if the constituency has given a mandate to our friends over there that this should be brought before the House, I shall have no objection at all. Then what I say is a mistake has been committed. They have interfered with our religion and they have not done so with the care that the Government of India has been enjoining upon themselves that they would do. Now, why should they not change, why should they not rectify their mistake? The Honourable the Home Member said that he does not believe that a custom which had been in existence for so many years could be wiped out by a mere stroke of the pen. He does not believe that a mere penal provision would do to change a long standing custom. His colleague, the Honourable the Leader of the House, has stated in no unmistakable terms that he does not believe that any reform should be forced down the throat of a people, that in India especially when the community believes that the reform is against their religious conviction; and he has also stated further—and this is rather interesting—“ I also hold that in matters

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affecting the organised and established social life of a community or the personal law of any distinctive community, legislation by composite legislatures is absolutely undesirable.....”

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : I am sorry to have to interrupt my Honourable friend ; but during the last fifteen minutes he has been trying to show that this Act should never have been passed—not that it should be amended.

Raja Bahadur G. Krishnamachariar : My friend, Dr. Gour, is always particularly anxious to push forward his own Bills.....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Is that a point of order or a statement ?

Sir Hari Singh Gour : I have put a point of order and I want a ruling from the Chair whether my Honourable friend is in order in attacking the whole Act which he had done on the last occasion.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : A point of order has been raised. The Chair has followed the Honourable Member's speech with great attention. So long as he was replying to the position which the Honourable the Home Member took up in regard to his Bill, he was perfectly in order to point out the inconsistency between the attitude of Government in the past and that in the present. The Chair can not stop him doing that. I trust the Honourable Member will restrict his remarks by way of reply to the issue before the House.

Raja Bahadur G. Krishnamachariar : I apologise to you if I have transgressed my point. I was perhaps carried away by my enthusiasm for the subject.

Now, the next point that my Honourable friend, the Home Member, addressed this House was, what has happened since the passing of the Act to justify us to reconsider the matter. The answer to that is perfectly plain. Shortly after the passing of this Act, my friend, Mr. Acharya, who at that time was leading the forlorn hope and which, it is my misfortune to-day to lead,—put a question in February 1930, and this was the reply :

“ Government are aware that there is considerable feeling regarding the provisions of this Act. They trust, however, that the difficulties at present felt may be solved.....There are several Bills which the Government propose to circulate for opinion.....”

They have circulated the Bill for opinion, and the next proof is that a representation from the head of the Ahmadiya community who took the trouble to address.....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Will the Honourable Member tell the House what has that to do with the amending Bill ? The Honourable Member will have to explain

what relevancy his observations have on the issue before the House.

Raja Bahadur G. Krishnamachariar : If the Honourable the Home Member was in order when he put the question to me,—and I take it it was put to me, namely, what are the changes that have happened since the passing of the Act to justify the Government to change their view now, and if, Sir, I am allowed to have my say, I would respectfully submit that I am entitled to give an answer to that question, and I was going to point out the various changes that have taken place and that have come to the notice of the Government since the passing of the Act, and in order to induce them to change their attitude even if they were perfectly justified at the time the Act was passed, in order to do what they did.....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Honourable Member would be perfectly in order if he restricted his remarks to that aspect of the question.

Raja Bahadur G. Krishnamachariar : That is what I was attempting to do. There is a good deal of feeling in the country in consequence of the passing of this Act which the Government should reconsider in connection with this Bill, and I was referring to the commotion that was raised in the country in order to show the actual condition in the country in answer to the position taken up by the Honourable the Home Member that they were in close touch with the Local Government and that no such representation has ever reached them. These are facts which ought to be within his knowledge. Even if they are not within his knowledge, I would respectfully submit that in answer to that question of his I am entitled to bring this to his notice.

Lastly, and that is the most important thing, but not the least, the great commotion in the Frontier Provinces. We all know that the Congress was seriously criticised that this Sarda Act was used as a handle in order to rouse the feeling of the communities there. The Congress was accused over and over again by Government that a great commotion has been roused by them, and that, I say, is a fact, which should make the Government think seriously in order to determine whether the Act, which is capable of being represented in that manner, whether an Act which could be made the basis of creating a commotion in a large portion of the Indian Empire, could be kept in the Statute-book in this manner. That was my point.

As I said, Sir, every member of the Government of India individually is against the principle of the Bill. Now, what is the difficulty in changing it? The Honourable the Home Member said with reference to the great caution with which the old Bill was considered that they had come to the conclusion that the evil exists. I have got a good many authorities, and I do not want to waste the time of the House by reading out long extracts from them, and these authorities show that not only does the evil not exist, but there is a strange misreading of the condition

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that was reported by the Age of Consent Committee. I would however point out respectfully that the Age of Consent Committee was never called upon to decide this matter, and I want the Honourable the Home Member to look up his references, and he will then agree with me that the Age of Consent Committee was never asked to decide the marriage age. They themselves say that they were not asked to do so. Now, there is only one quotation, and that I must respectfully ask your leave to read, and that is because it comes from an unexpected quarter. Mr. H. G. Wells,—I think we have all heard his name,—says this in his book which has recently come out :

“ Even where women are not constrained by custom to the premature acceptance of a sexual role, the emergence of sex seems to affect lives in the opening phase of adult life much more fundamentally than it affects the lives of men. It is hardly too much to say that in the alert and the curious-minded girl, possibly more eager for knowledge than a boy of her age, a new personality is born at adolescence. The change is greater and more revolutionary than it is with the ripening male. Its onset is really catastrophic. The new personality that emerges may be domestic, maternal, erotic, or religious or a mixture of any of these—the choice will be determined partly by type and partly by circumstances—but it will be typically an acutely self-conscious personality and given to dramatizing its performances. In the course of two or three years this new born personality seizes upon its role.....”

The point is this. The evil that has been attacked, the evil that they say now should not be in existence, is that there
 1 P.M. should not be a consummation of marriage before 14, and admittedly girls attain their puberty at about 12. So, infantile or maternity mortality being too much about that age, they say that there ought to be later consummation. Well, Mr. Wells does not think so.

There is one other point in the Honourable the Home Member's argument, and that is, why not you wait till the new Councils come. I have got my own ideas, and I am afraid the new Councils are not going to come so very soon. Even if they come soon, they will consist probably of twice or thrice the number of the present Assembly and beyond that I do not expect anything from them. Where you lower the standard, where you allow a large number of people to come in, I am perfectly sure that the Assembly would be greatly crowded, but beyond that, it would be of absolutely no use in order to decide this question. But I am not concerned with that now. I am not a prophet. There is a saying which says, don't prophesy unless you know. Therefore, I do not mean to prophesy at all, but what I do say is this. Democracy or no democracy, we do not want any such half-baked democracy which would throw us into the tender mercies of Gours and Sardas who would deal with our Shastras in the way that they have been dealing in this House,—in the most disrespectful, dishonourable, and insulting way in which they have been referring to our sacred books.....

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara : General) : The Honourable Member uses the word “dishonourable”. I have never said anything in my speech, I have never used any language which would go to support my Honourable friend's description “dishonourable”. I have always treated the Shastras with the greatest respect. I am a Hindü of Hindus, a better and truer Hindü than my Honourable friend

though I don't come here with a painted forehead. (Laughter and Cheers.) I am a Hindu, a Hindu of Hindus, and I repeat that I treat all Hindu Shastras with the greatest respect. There may be differences of opinion with regard to a particular book being a Shastra or not, but all recognised Shastras I always treat with respect, and I must ask my Honourable friend to withdraw that word "dishonourable".

Raja Bahadur G. Krishnamachariar : I apologise to my Honourable friend. If he does not treat the Shastras dishonourably, it is not my business to offend him. But I fear that my Honourable friend, Sir Hari Singh Gour, is not so very tender to our Shastras as my Honourable friend, Diwan Bahadur Sarada, is ; unfortunately as both of them are interested in the matter, I have got to join them together. I say on this question of new constitution, we do not want any such democracy at all and we shall fight to death the bringing into existence of a democracy which is going to flout our religion, which is going to interfere with our religious matters, a foretaste of which we have got now. Such a democracy we do not want.

I do not want to take up much time of the House, but look at what Mr. Gandhi himself has stated. Gandhiji has stated that in the democracy that he knew in England, where democracy has been in existence for hundreds of years, it is only half a dozen men who appear before and lead the people and the rest simply go and give their votes. That is what is happening there. That sort of democracy I do not want. I make a present of it on behalf of the people whom I have the honour to represent to those who may want it. We do not want it and the Government of India may keep it to themselves. That is all that I have got to say with reference to what my Honourable friend, the Home Member, has said.

I have got only a few words to say with regard to what Mr. Jadhav has said. I have already dealt with his argument about direction in the Shastras. His strongest argument was that the customs have changed and that we have gone far away from the intentions of the Shastras. The point is that in every religion customs change. For instance, the peaceful religion of Jesus Christ led to the Inquisition, and have they abolished Christianity on that account ? Certain atrocities have been committed by Muhammadans in the name of Muhammadan religion. Have they abolished Islam on that account ? That is not the way to reform society. If you find that customs have changed and people really do want it, by all means change the customs, but till then don't touch them. There is one further point that he took up. He spoke about irrevocable betrothals. Apparently he did not know. I took that point from the Census Commissioner's report of 1921 upon which he relied a great deal on the former occasion. My position is this. We rely upon the Shastras, we have been acting upon the Shastras ; the Shastras, according to us, have laid down a certain course of conduct. You have disavowed all intentions to interfere with our religion. I have pointed out how you have interfered with our religion. I have pointed out how you have gone against every canon of social legislation, and consequently I respectfully appeal to you so to amend the Act as to carry the greatest amount of popular support with you.

Sir, I thank you for the courtesy that you have shown in allowing me to speak on this subject. (Cheers.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question which I have now to put is :

“ That the Bill to amend the Child Marriage Restraint Act, 1929, be taken into consideration.”

The Assembly divided :

AYES—21.

Abdul Matin Chaudhury, Mr.
Badi-uz-Zaman, Maulvi.
Bhuput Sing, Mr.
Ghuznavi, Mr. A. H.
Ibrahim Ali Khan, Lieut. Nawab Muhammad.
Ishwarsingji, Nawab Naharsingji.
Jha, Pandit Ram Krishna.
Krishnamachariar, Raja Bahadur G.
Lahiri Chaudhury, Mr. D. K.
Maswood Ahmad, Mr. M.

Misra, Mr. B. N.
Muazzam Sahib Bahadur, Mr. Muhammad.
Mujumdar, Sardar G. N.
Mukherjee, Rai Bahadur S. C.
Roy, Rai Bahadur Sukhraj.
Sen, Pandit Satyendra Nath.
Shafee Daoodi, Maulvi Muhammad.
Suhrawardy, Sir Abdulla-al-Mámün.
Uppi Saheb Bahadur, Mr.
Wajihuddin, Khan Bahadur Haji.
Ziauddin Ahmad, Dr.

NOES—53.

Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab.
Allah Baksh Khan Tiwana, Khan Bahadur Malik.
Amir Husain, Khan Bahadur Saiyid.
Bajpai, Mr. G. S.
Banerji, Mr. Rajnarayan.
Chinoy, Mr. Rahimtoolla M.
Clow, Mr. A. G.
Dalal, Dr. B. D.
Dash, Mr. A. J.
Dudhoria, Mr. Nabakumar Sing.
Fazl-i-Ilahi, Khan Sahib Shaikh.
Gour, Sir Hari Singh.
Graham, Sir Lancelot.
Greenfield, Mr. H. C.
Gwynne, Mr. C. W.
Haig, The Honourable Mr. H. G.
Hezlett, Mr. J.
Hudson, Sir Leslie.
Jadhav, Mr. B. V.
Joshi, Mr. N. M.
Lalchand Navalrai, Mr.
Lal Chand, Honorary Captain Rao Bahadur Chaudhari.
Mackenzie, Mr. R. T. H.
Macqueen, Mr. P.
Metcalf, Mr. H. A. F.
Mitra, Mr. S. C.

Morgan, Mr. G.
Munshi, Mr. Jehangir K.
Naydu, Rao Bahadur B. V. Sri Hari Rao.
Nichols, Mr. H. L.
Nihal Singh, Sardar.
Noyce, The Honourable Sir Frank.
Pandit, Rao Bahadur S. R.
Parma Nand, Bhai.
Patil, Rao Bahadur B. L.
Puri, Mr. B. R.
Rafiuddin Ahmad, Khan Bahadur Maulvi.
Raghubir Singh, Kunwar.
Rastogi, Mr. Badri Lal.
Rau, Mr. P. R.
Reddi, Mr. T. N. Ramakrishna.
Russell, Lieut.-Col. A. J. H.
Ryan, Mr. T.
Sahi, Mr. Ram Prashad Narayan.
Sant Singh, Sardar.
Sarda, Diwan Bahadur Harbilas.
Scott, Mr. J. Ramsay.
Shah Nawaz, Mian Muhammad.
Sher Muhammad Khan Gakhar, Captain.
Smith, Mr. R.
Sorley, Mr. H. T.
Tottenham, Mr. G. R. F.

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Chair understands that the Honourable Member, Sir Hari Singh Gour, does not wish to move his next motion on the Order Paper.

Raja Bahadur G. Krishnamachariar : I am not moving my motion; No. 4.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The next item which will be taken up after Lunch will be Item No. 6 on the Order Paper.

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

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

THE INDIAN INCOME-TAX (AMENDMENT) BILL.

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I beg to move :

“ That the Bill further to amend the Indian Income-tax Act, 1922, be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Raja Bahadur G. Krishnamachariar, Mr. T. N. Ramakrishna Beddi, Mr. B. Sitaramaraju, Khan Bahadur H. M. Wilayatullah, Kunwar Hajeer Ismail Ali Khan, Lala Hari Raj Swarup, Rao Bahadur S. R. Pandit, Mr. B. R. Puri, Mr. Jagan Nath Aggarwal, Sir Lancelot Graham, Mr. R. T. H. Mackenzie, and the Mover, with instructions to report on or before the 31st December, 1932, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Honourable Members will see from the number of signatures appended to this Bill, numbering no less than fifty-four, what importance is attached to this Bill ; and when I shall briefly state to Honourable Members the urgent, nay the imperative necessity of a change in the law affecting income-tax, I do not think there will be one dissident voice against my motion or the substance of it. Honourable Members will remember that the income-tax enactment, then called the “ License Tax Act ”, was first introduced into this country in 1886, and the reason given for this License Tax Act was that there was a deficit in the Budget consequent upon the Burmese War and the sudden fall in the price of silver. A very small increase in the current revenue was demanded by Sir Auckland Colvin who moved the introduction of the Bill. Honourable Members will further remember that from that date down to 1916, income-tax was a small impost, and consequently the skeleton procedure provided for its levy gave summary jurisdiction to the Collectors and the Deputy Commissioners, on a summary inquiry, to impose and levy it. In 1916, there was a proposal to suddenly increase the tax, and there was, Sir, an illuminating discussion of the Income-tax Amendment Bill ; and I find, Sir, from the proceedings of the late Imperial Legislative Council that you as a representative of the people took an honourable share in resisting this impost. Nevertheless, as you rightly then pointed out, that your voice was merely advisory, you had no decisive vote in the matter. The result was that in spite of the protest the income-tax was increased on an understanding that it was to be a war measure and a super-tax was further added on on the ground that the war necessitated that measure. In 1922, on the coming into force of the Reforms, the Income-tax Act was consolidated ; but it was consolidated

[Sir Hari Singh Gour.]

on the old ground, namely, that the executive were to continue to be armed with plenary powers both as regards assessment and also the right of hearing appeals. But a small provision was added which gave the High Court jurisdiction to go into questions of law either upon the cases stated by the Income-tax Commissioner or upon the writ of *mandamus* issued by them. Such was the state of the law down to 1931. Honourable Members will find that during this period of nearly ten years under the reformed constitution, the Government of India have been adding by supplementary and amending Bills to the provisions of the Income-tax Act tightening the law so far as the assessee was concerned, but giving him no relief against improper, unjust or oppressive assessment. Nevertheless, down to 1931, the High Courts of India had held that if an assessment was unreasonably high, it was a question of law and that the High Court had jurisdiction to interfere. In 1931, five Judges of the Rangoon High Court reviewed the whole case law on the subject and came to the startling conclusion that if an assessment is made by the Income-tax officer upon no grounds whatever, however arbitrarily and without any evidence, it was not a question of law upon which the High Court could interfere, and that Court and the other High Courts have further gone to the length of holding that if the Income-tax officer demands of an assessee a document or thing which he declares he has not got and is therefore unable to produce, however just, however reasonable might be his excuse for not producing it, however inconsequential might be the document which the Income-tax officer's curiosity wants to see, still the Income-tax officer can say : You have not produced the document which I wanted you to produce, and I therefore proceed to assess you *ex parte*. Although he assesses *ex parte*, as I have pointed out, unreasonably and arbitrarily and in an oppressive manner, still the assessee has got no right of appeal and he has got no right of going to the High Court and to complain that he has been unjustly treated and the decision of the Income-tax officer is wrong in law. Honourable Members will ask me : Could such a startling view of the law exist in this country ? I shall read to you, Sir, the language of the five Judges of the Rangoon High Court as to what they conceive to be the law and I shall also draw your attention to the strong recommendation which they have made to the Government of India that that law should be altered. In Indian Law Reports 9, Rangoon, at pages 292 and 293 (the case begins at page 281) occur the following passages. The Chief Justice Page delivering judgment of the Court says :

“ In England the persons entrusted with the duty of making assessments to income-tax, generally speaking, are non-official laymen appointed as Commissioners in that behalf for divisions and areas in respect of which they have special knowledge of the local conditions. The decision of the Commissioners on questions of fact is conclusive if there is any evidence upon which it could be based ; but in respect of every assessment an appeal lies to the High Court by way of case stated if it is alleged that the determination of the Commissioners is ‘ erroneous in point of law ’ ; even in cases in which by reason of default on the part of the assessee an estimated assessment has been made. In India, as in England, the persons upon whom is cast the duty of making assessments to income-tax are laymen ; but, whereas in England such persons normally are non-officials, in India the income-tax authorities are, or consist of, Government officials and the only remedy open to an assessee who is aggrieved by an assessment made upon him is to seek redress, by way of appeal or review as the case may be, from one official of the Income-tax Department of Government to another. (Mark these words.) It cannot be doubted, I apprehend, that the English system, if feasible, is far more satisfactory, and would be regarded by the general public as a

more equitable method of assessment than that obtaining in this country. But whether it would be practicable or expedient in India or in Burma to substitute for officials a body of non-official laymen as the taxing authority is a matter of policy with which the Courts are not concerned, and in respect of which I am not in a position to express an opinion although the creation of a Board of Referees in 1930 is not without significance in this connection. There can be no doubt, however, that the fact that the Income-tax Department in India and Burma is 'a judge in its own cause' has at times and among certain sections of the general public caused uneasiness, and anxiety is felt lest the possession of such autocratic powers by officials of a Government Department may sometimes result in injustice or hardship being done to those upon whom assessments are made."

Honourable Members will see that these are strong words spoken not by politicians but by Judges sitting in judgment in an income-tax case in which they expressed their helplessness to assist the assessee in case of arbitrary and oppressive assessment. The other High Courts of India, for example, the Lahore, Patna and Calcutta High Courts, have equally pointed out that the income-tax law, in so far as it is worded, is too rigorous for the assessee to obtain that even-handed justice to which he is entitled. The five Judges of the Rangoon High Court, at the bottom of that very page, have pointed out that the injustice is so great that many of the Judges have taken upon themselves to review and revise the assessments, holding that arbitrary assessments are matters of law. But the Judges say that that is not in accordance with the true view which they laid down in the case to which I have referred. Honourable Members will thus find that the income-tax law, as it is administered in this country, has become an impossibility so far as redress to the assessee is concerned, and that the arbitrary and autocratic power, to use the language of the Chief Justice of the Rangoon High Court, which the income-tax authorities possess, admits of no redress at the hands of any judicial tribunal.

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Let me very briefly point out to Honourable Members that the section dealing with assessment is section 23 of the Income-tax Act and under that it is provided that if the income-tax officer demands a return and a return is made and after that the income-tax officer wants a further document to be produced before him and the assessee complains that he has no such document in existence, and therefore cannot produce it, he is nevertheless entitled to make an assessment to the best of his judgment. The language of section 23 (4) will bear a recital, it says—and I leave out the unnecessary words :

"If any person fails to make a return under sub-section (1) or sub-section (2) of section 22, as the case may be, or fails to comply with all the terms of notice issued under sub-section (4) of the same section or,"

—Honourable Members will please mark these words—

"or having made a return fails to comply with all the terms of the notice issued under sub-section (2) of this section, the income-tax officer shall make the assessment to the best of his judgment."

The High Courts in India have been for a very long time divided upon the meaning of the words, "having made a return" and the ultimate provision "that the assessment shall be made to the best of his judgment". It has been held by one set of Courts that where the assessee has produced all the accounts and the income-tax officer still demands a document which the assessee is either unable to produce or which has not the slightest bearing upon his income, that would not enable the income-tax officer to proceed *ex parte* and to assess him under the provisions of this clause.

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The other High Courts have held that the man cannot be said to have made a return unless he produces all the documents which the income-tax officer calls for and whether these documents are rightly withheld or not is not a question of law into which the income-tax officer, as the sole and final judge, can go. Now, Sir, that is the first point of grievance that the assessee has. The second point and a still more important point is that having once decided that the assessee has failed to produce the document called for as enjoined by clause 4, the income-tax officer has to make the assessment "to the best of his judgment". Now, what is the meaning of these words "to the best of his judgment"? The Lahore High Court, the Patna High Court and the Rangoon High Court in full bench cases, and the Calcutta High Court and all the other High Courts have, down to last year, held that the function which the income-tax officer performs is of a quasi-judicial character and the words "to the best of his judgment" mean that there must be some evidence upon which he can make an estimate, it does not matter whether that estimate is right or wrong, but there must be some evidence to support his assessment. That was the view taken down to last year, but in the case that I have cited the five Judges of the Rangoon High Court have over-ruled all their previous full bench cases and held that it is not for the High Court to decide or to enquire into whether there was any evidence upon which the income-tax officer has made the assessment. It may be arbitrary, it may be excessive, or it may be, as my Honourable friend, Raja Bahadur says, autocratic and oppressive, but nevertheless the High Court is powerless to interfere and it is with reference to this powerlessness of the judicial authority that that statement from which I cited was made by the five Judges that there must be a change of law.

But, Sir, apart from the high authority of the High Court, apart from the powerlessness which the High Courts have confessed, we, as legislators, cannot be party to the perpetuation of this wrong committed upon the income-tax paying public. (Hear, hear.) Questions after questions have been asked on the floor of this House, as to whether the assessee should not get redress in the matter of assessment by, at any rate, obtaining some relief from a judicial body or tribunal against executive act, and while the Finance Department and the Central Board of Revenue are day in and day out forging further weapons and producing them from their inexhaustible armoury for the purpose of stiffening the law, they have taken no notice of this long-felt public want to which expression has been given by one and all on this side of the House. The amendment of income-tax law may come to you in the matter of short bills intended to deal with short *ad hoc* questions upon which the income-tax authorities and the Central Board of Revenue and the Finance Department would obtain the sanction of this House, but in fairness and in justice, I should have expected that when they find this great justice-denying loop-hole in the law, they would take the trouble to come to this House with an amending Bill and ask this House to redress a wrong from which the people have been suffering for such a long time.

But what have they done? Even in the course of the present Session

3 P.M.

two Bills are held up before our eyes. The one that was on the agenda paper yesterday had the object of further tightening up the law; and if this Income-tax Officer, whose assessment is arbitrary, oppressive, unjust and inequitable, imposes

a penalty, they demand of this House to give them the power to publish to the wide world that this assessee has not only been assessed but penalised for having concealed his income. That is the purport or one of the purports of the Bill to which the Finance Member was going to ask your consent yesterday and it is again, I am sorry to say, down on the agenda for to-morrow.

Sir, we have often been told that these amending Bills are intended to bring the Indian law into line with English law, and let us therefore for one moment turn to the English law on the subject of income-tax. Honourable Members who have heard the passage which I read from the report of the Rangoon High Court case will have no difficulty in understanding that between the English law and the Indian law there is a great deal of contrast, but very little to compare. Under the English law the income-tax is levied by the representatives of the people and the income-tax officials are in the nature of supplicant or applicant for that income, the amount of which is determined by the Income-tax Commissioners. And against their decision there are at least three appeals, as I have pointed out in my notes on clauses. I do not propose to take this House through all the details of the English income-tax assessment laws, but in the Bill which I and my co-authors have sponsored we have two main objects in view. One is that over all assessments there must be some measure of popular control, and secondly, that against an assessment an appeal should lie to an authority unconnected with the assessment. These are the two cardinal principles upon which I ask for the concurrence of this House. And is there any one in this House who can deny that these are bare facts of elementary justice upon which there cannot be two opinions? Honourable Members will thus see that the Bill which I and my co-authors have sponsored is a Bill which gives to the assessee the elementary right of justice. We have not thought it necessary to give to the Indian assessee the same measure of protection which the English assessee enjoys in his own country. We have not given the assessee three appeals, we have given him only one. We have not provided for the assessment being made by commissioners or an appeal to be heard by special commissioners. We have provided a much simpler procedure, and if that procedure is open to objection we are quite prepared to consider any alternative change. But what we do insist upon is that there must be an immediate change in the processual law of income-tax assessment in this country. As it is, the hand of the clock has been put back by the recent decision to which I have adverted. Last year some protection was given to the assessee against unreasonable and arbitrary assessments in that he could either demand of the Income-tax Commissioner that his case should be stated to the High Court, and that failing, he could apply to the High Court for a *mandamus*. But the change in the interpretation of the law since the decision to which I have adverted has deprived the unfortunate assessee of even that meagre protection. I therefore submit that the least that Government can do is at any rate to restore the law by elucidating and clarifying the provisions of section 23 of the Income-tax Act by giving to the assessee some protection against arbitrary and oppressive assessment. That, I submit, is the least that Government should have done and can still do. Sir, I am quite aware of the number of objections that the Honourable the occupants of the Treasury Benches will trot out against my proposal. We shall be told that the procedure that we wish to recommend would entail a heavy cost upon the establishment. I beg to ask,

[Sir Hari Singh Gour.]

was that cost incurred between 1886 and 1931 when the case law was to the effect that against arbitrary and inequitable assessment the assessee had a right of appeal to the High Court on a writ of *mandamus* and that it was a question of law and not a question of fact? That at any rate did not entail any extraordinary expenditure beyond Rs. 100 which the unfortunate assessee had to pay against 15 shillings which the assessee has to pay in England. I drew the attention of the Finance Department to this disparity between English and Indian law and I was told in that stereotyped and meaningless phrase that my representation was receiving the most careful attention of the Finance Department, with the inevitable result to which these most careful considerations always lead, namely, that the Government of India saw no reason to alter their views. That is the penalty which the assessee in this country has to pay.

One word more, and I have done. When we introduced this Bill we sought the good offices of the Finance Department and we said "this is a matter calling for urgent redress and the Government should by executive action elicit public opinion by circulating our Bill". But the Government said "Oh, no: we are going to oppose your Bill and therefore we are not going even to collect opinions upon it". They further said that our Bill was ill-drafted. We are not expert draftsmen and we therefore solicited the combined good offices of the Law Department and the Finance Department; and we said "Redraft our Bill; put it into any shape you like before the Legislative Assembly; but give us what we want. Safeguard these two conditions which are the main principle of the Bill". We were told that the Bill could not be re-drafted, but that it would be set right in the Select Committee. It is for that reason that I have tabled this motion for the reference of my Bill to the Select Committee. Let me add one more word.

One of my Honourable friends, I believe with the concurrence of Government, has tabled an amendment for the circulation of the Bill for the purpose of eliciting opinions thereon by the 2nd January, 1933. Neither I nor my colleagues wish to burke an inquiry into this momentous question as to the manner in which income-tax must be collected; but what we did want is that if the Bill went to Select Committee and the drafting of the Bill was set right in that committee, I should have been the first to ask the Select Committee to republish the Bill so that the revised draft of the Bill may be before the public for the purpose of obtaining their opinions. But if the Government feel that they will be going too far in accepting my motion for reference to Select Committee. I for one would not hesitate to accept their offer and send my small Bill for the purpose of obtaining public opinions thereon. But I hope that in their covering letter the Government will have the fairness to state that I and my colleagues do not stand by every clause and by every word in the Bill, which requires redrafting, but that we do insist upon the safeguarding of two main principles, namely, that all assessments must be subject to some measure of popular control and that all assessments must be subject to appeal before a tribunal unconnected with the assessment. Sir, I move.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Motion moved :

"That the Bill further to amend the Indian Income-tax Act, 1922, be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Raja Bahadur G.

Krishnamachariar, Mr. T. N. Ramakrishna Beddi, Mr. B. Sitaramaraju, Khan Bahadur H. M. Wilayatullah, Kunwar Hajee Ismail Ali Khan, Lala Hari Raj Swarup, Rao Bahadur S. R. Pandit, Mr. B. R. Puri, Mr. Jagan Nath Aggarwal, Sir Lancelot Graham, Mr. B. T. H. Mackenzie, and the Mover, with instructions to report on or before the 31st December, 1932, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. B. T. H. Mackenzie (Nominated Non-Official) : Sir, I beg to move as an amendment :

" That the Bill be circulated for the purpose of eliciting public opinion thereon by the 2nd January, 1933."

Sir, I am no lawyer, as it is evident to the veriest novice in the House, like myself, that the Honourable the Mover is : I do not therefore propose to join issue with him in the various technical legal points that he has raised in the course of his speech. But in moving this amendment I do so mainly for the reason that the Honourable the Mover in introducing the Bill on the 18th February of this year said that he was aware that it was defective in drafting. This shows that he, and presumably his 53 supporters, were not satisfied with it. How much more, therefore, is it likely that the other Honourable Members will not be satisfied with it as it stands ?

The Honourable the Mover has stated in his speech just now that for that reason he will be the first person to make this point with the Select Committee if it is referred to one. My own opinion is that it would be better if the opinions of the general public were available in the Select Committee, should the Bill at some future date be referred to one.

I do not propose to go into the matter in any great detail here, as I feel, for the reason already stated, that there is not likely to be much, if any, opposition to this amendment. I would, however, just like to draw the attention of Honourable Members to a few points which seem to me to require the further consideration which they will receive if the Bill is circulated for public opinion.

First of all, as regards the actual drafting, I think that the clause which calls for special comment is section 2, sub-section (8), giving the composition of the proposed tribunal. There is no indication therein as to how the first member of the tribunal is to be appointed, whether by election or by nomination and, if so, by whom. Nothing is stated as to whether the tribunal is to be paid or whether it is to be permanent or only to last for a specified period. These are all points which I think it will be agreed are of the utmost importance and should be clearly laid down in the Bill.

Another point which occurs to me as being of considerable importance is whether communal considerations are to enter the appointments in question.

To revert to what I said just now as to whether the members of the tribunal are to be paid or not, I presume that the intention is that they should be, and paid well, as I cannot visualise for instance " a member of the legal profession of at least 10 years' standing " being prepared to serve on such a tribunal unless this were so. Moreover, I do not think any one could blame him, if he did refuse to do so. At the same time I think that the remuneration should be specified.

Now to turn to the question of whether the procedure under the proposed Bill would in any way be preferable to the existing procedure under

[Mr. R. T. H. Mackenzie.]

the Act : I understand that, as matters stand at present, an Income-tax officer in this country decides about 1,200 assessments a year, of which a large number are done on tour after examining accounts. Appeals may then be made from the Income-tax officer's assessment to the Assistant Commissioner, and, if the assessee is still not satisfied, to the Commissioner. It is now proposed, I understand, to give the taxpayer a right of appeal on all questions of fact or law to the tribunal ; and from the tribunal to the High Court—also on questions of law or fact. It seems to me that the probable result of this would be either that no tax would be collected at all, or, if it were, the cost of doing so would almost certainly be more than it was worth. In any case I doubt very much whether a tribunal of the composition proposed is likely to be any more reliable than the Income-tax Commissioner.

As an alternative it has been suggested that a more suitable tribunal would be one composed on the lines of the Board of Referees mentioned in section 33A, sub-section (6), of the Act. I am of opinion, however, that appeals to such a Board would be few and far between owing to the natural dislike of assessees to disclosing their affairs to people outside the Income-tax Department who may in practice be their competitors in business.

There are other moot points which occur to me, such as the comparison between the tribunal now proposed and the General Commissioners in England, but I do not propose to go into these at the present moment, as I feel that it will be manifest to the House from the few points that I have mentioned that there must be many others in connection with this Bill, which require further consideration and expression of opinion. I therefore hope, Sir, that my amendment that the Bill be circulated for the expression of public opinion will receive the fullest support of all parties in the House.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : Sir, ever since I came to this House I have not been able to see eye to eye with my friend, Sir Hari Singh Gour, and so I congratulate myself that on this occasion, which is the first occasion, that I wholeheartedly support his motion. Sir, this is a Bill which was long overdue, and I speak as one who had come under the heavy heel of the Income-tax officer,—I have only just come out after five long years,—between section 23, clause (4) and section 22, clause (2) and all the rest of the clauses put together. After the latest amendment to the Income-tax Act, they have introduced a separate Department directly under the Government of India under which are appointed officers known as Income-tax officers, Assistant Commissioners and Commissioners of Income-tax, and on the top of them all the High Courts which have now pleaded their helplessness to give us redress. Now, the Income-tax officer issues a notice. He is obsessed so much with his own importance, because he is in charge of the whole district, that he can call upon any and everybody to appear before him. Now, if you do not appear before him,—the Act says you cannot compel an assessee to appear before him,—but out of sheer cussedness he would insist upon a man to appear before him by a certain time, and if this poor man fails to appear before the Income-tax officer, then early next morning he gets a notice under section 23, clause 2. In that notice, Sir, all sorts of things imaginable are mentioned, and if the House will pardon me for mentioning a personal matter, I should like to mention

it, because I think the House ought to be in possession of it and that is why I support this Bill very strongly. One quarter of a sheet, a whole page of typed matter I had to produce including my pass books, bank books, outside and inside India, account books relating to business done in 8 Indian States in British India, all my agricultural accounts and all my money-lending transactions, though I have none (Laughter)—because where is the money to come from? I had to produce all these things before this Income-tax officer, because he acted in a revengeful spirit. I produced what I had. I have no transactions outside India and I told him that I could not produce my pass books or account books relating to transactions outside India. "No", said the Income-tax officer, "your income is Rs. 50,000, and I tax you with Rs. 4,000". And this Rs. 4,000 to be paid in one week! I asked for time, and no time was given. I went to the Assistant Commissioner of Income-tax. He has no power under the Act and he says go to the Commissioner, and by the time the case is heard the time given expires, and the Income-tax officer imposes penalties which he may up to the amount taxed. In these circumstances what am I to do? I have already paid Rs. 12,000 by way of land revenue, and here the Income-tax officer comes behind me and asks for Rs. 4,000 plus penalty for every day that I have not produced the money. That is the way we go on for months and months together. We have to appear in person, not once, twice or thrice, but as many times as the Income-tax officer would want us to. He has one camp here today and tomorrow he has another at some other place. Fortunately I am away from my place, but my poor vakil goes from place to place along with this Income-tax officer. Eventually this great Income-tax officer comes to the conclusion that the tax assessed is perfectly correct and just. Now, I go to the Assistant Commissioner, this gentleman is in charge of three or four districts, and the House can easily imagine the agony to which the assessee is put in having to go from place to place, and after he pretends to listen to your arguments I say deliberately—he pretends to listen to your arguments, he delivers his judgment. And what is that judgment? It is already cut and dried. He gives his judgment in two minutes' time. Sir, I have had some experience of judicial work, some experience in writing judgments, and I feel that if I had the versatility of these Assistant Commissioners of Income-tax to write up judgments directly they hear the arguments, I would probably have been more successful in the Judicial Department. But the House may take it that the gentleman is quite ready with his decisions. Now, what should I do? There is no appeal to the Commissioner of Income-tax. There is a section which says 'power to review'. Review really means revision. They have not had even the learning to use the proper legal word for it—review means revision, and for revision one has to pay Rs. 100 as deposit and put forward one's ground, and then only the Commissioner of Income-tax will hear your case, and if you have to go to the High Court, you will have to do it, but my friend Sir Hari Singh Gour has pointed out the difficulties involved in going to the High Court. Such a state of things is absolutely intolerable to put up with. Sir, Government says that they are doing everything very sympathetically, and they are very very much surprised that people placed in the position described by me do not co-operate with them in these matters. Now, Sir, it is all very well for gentlemen who draw eight and ten thousands of rupees from the public exchequer, who go about in saloons, enjoying all the amenities of social and political life, it is all very well for these gentle-

[Raja Bahadur G. Krishnamachariar.]

men to call upon me who is toiling and moiling in my field (Laughter) in the hope of getting something, to pay all this heavy tax. Now, when I am trying to get something out of my land, the merchant will not take my produce, and the tax-gatherer insists upon getting the dues from me, which I am not able to pay. So what does he do? He goes to the Deputy Collector to whom a copy of this assessment order has been sent. The Deputy Collector dins into the ear of the village munsiff to go and attach my motor car if I do not pay the tax. I take my motor car and offer it to him, but he is so much afraid of it that he will not touch it even with a pair of tongs. That, Sir, is the position with regard to this income-tax collection. How can we have the patience, the tolerance to submit to all these things, and how can the Government in all fairness ask us to co-operate with them? By all means take your money. There is nothing more left in the country. India has to be bled; the lancet has to be applied. These are not my words, Sir. These are the words of the Prime Minister of England. Of course, to a certain extent we have got to pay the revenue. Even according to our ancient shastras the tax that a king demands has got to be paid, and we are quite prepared to pay it. But why in the name of collecting the tax, which you say you are entitled to, set behind us a whole host of men unscrupulous, without common sense whatsoever and trying to make as much money as possible from the helpless public. It is to remedy these things that my friend has brought forward this Bill. Take as much money as you like. For instance, we have the Land Revenue Code. No collector, no Board of Revenue, no Government can take out from us half a pie more than what is fixed in those rules. But what we would like is when you are going to entrust the whole Government into popular hands, first try this matter and put it into the hands of popular representatives. My Honourable friend over there says that if that is done, no tax will be collected and the representatives will be very tender to the people. I have not yet come across any tax that the Government has imposed which they have not been able to collect. Only the other day there was a question of the financial relations between the Indian States and the Government of India. When the Nizam transferred certain districts the revenue was supposed to be Rs. 71 lakhs, and there is a note by the Madras Government, "This amount was never collected". That is how they do in the Indian States, but no such note will ever appear under any heading of tax that the British Government imposes. Every pie of it, even though they have to spend Rs. 8 in sending letters of reminder—every pie of that tax is collected and collected mercilessly. But in doing so, why not you do it in a just manner? Why not you do it in a manner that people will not feel the trouble, the annoyance, the autoeracy and the injustice with which the taxes are collected? Therefore, I most respectfully and humbly submit that this House will accept the two principles underlying the Bill, the first being the taxing authority, and the next being the appellate authority. In the olden days when the Rowlatt Act was passed there was a slogan current among the people of the Punjab, *Na Vakil, Na Dalil, Na Appeal*. That description would apply exactly to the existing system of income-tax—*Na Vakil, Na Dalil, Na Appeal*. Take away that objection also and provide against it. That is my very humble submission. (Cheers.)

Mr. B. Das (Orissa Division : Non-Muhammadian) : As I happen to be one of the foster-fathers of this Bill, I think I must join in the debate

at this stage. I must congratulate my Honourable friend, Mr. Mackenzie, on his able maiden speech, but I wish he had consulted his colleagues on the European Group, and he would have found out the genesis of this Bill and what lies behind it. He would have found out from his friends of the European Group who are Members of this House for a long number of years—they would have told him that on various occasions Members of this House had brought to the notice of the Government that the method of assessment and the method of appeals that have been prescribed by the Income-tax Act do not meet with the approval of the country. I wish that he had consulted his friends on the European Group and would have ascertained how on points of income-tax his interest and those of Indians are one and how my capitalist friends on my left wanted to oppose a particular Bill along with the European Group when Government wanted to tax foreign investments. My Honourable friend wants that the Bill should be circulated. I do not mind its being circulated, but if my Honourable friend would only dive into the archives of the Finance Department, he would find the various Chambers of Commerce had, at different times, represented to the Government that the appeal tribunal should not be the Income-tax Commissioner but the High Court. My Honourable friend, Sir Alan Parsons, may not agree to that now, but he will have to, later on.

My Honourable friend says that the communal question is raised in the Bill and he wants the Bill to be circulated for opinion. I think we all pay Government money. Money is money, whether it is gold or silver. It is not Muslim money or European money or Hindu money. So I do not understand why my Honourable friend should raise the communal bogey. Probably he is thinking of going to the Round Table Conference and getting a seat there, and he is thinking of his old friend, Mr. Benthall, who raised the communal bogey in the Round Table Conference and read out a lesson to us. I want the Government to be fair, to be honest and to find out whether the grievances of the people are just or not. If the grievances are just, Government must redress them, and the various acts of omission and commission of the Income-tax Commissioners and officers that have been narrated so very interestingly by my esteemed friend, the Raja Bahadur,—they have been narrated very often on the floor of this House. These grievances exist, and so, what is the use of circulating this Bill? In my ten years' experience of this Legislature, I have never found that the Government have consulted the public or the Chambers of Commerce, or even the Associated Chambers of Commerce which my Honourable friend represents here, as to what salary they should pay to these tribunals. My Honourable friend, as a business man, knows, when tribunals or arbitration boards are set up in business matters, what daily rates are paid to them. If my Honourable friend complains that lawyers should not be appointed on these tribunals, he may make a suggestion that business men should be appointed on such tribunals, but that is a small issue. That does not apply to the principle of the Bill. I hope that some other Member from the European Group will rise later and support the principle of the Bill. I take it, if the Bill is changed drastically in the Select Committee, then it can be circulated, but at this stage the Bill, as drafted, meets with the wishes of the great mass of the people, and also meets with the wishes of the mercantile community in India.

Mr. S. C. Sen (Bengal National Chamber of Commerce : Indian Commerce) : I support the Bill. I have some experience of income-tax mat-

[Mr. S. C. Sen.]

ters in Calcutta and I fully agree with Sir Hari Singh Gour that the way in which assessments are made is really harsh and puts people to great hardship. I would not express my feeling too strongly, but I may say that there are vagaries, there is zoolum and also autocratic harshness in the assessments everywhere. (*Some Honourable Members*: "Hear, hear.") It is time that something should be done in the way of reform.

There are two points which have been urged in this case. One is that something like assessors who are non-officials should assess income-tax if the income-tax officers do not do their duty properly according to the assessee or, in other words, assessment should be made by a non-official body. This principle has already been accepted by the Government of India in section 33-A of the Income-tax Act. Why should they not introduce a similar provision so far as the ordinary assessments are concerned? In section 33-A, they have adopted that appeals should be filed with referees, one of whom should be a judicial officer and the others are ordinary laymen or merchants. The same principle can be adopted in the case of every assessment. There is no harm. If necessary, a limit can be fixed as regards the amount. As regards section 23, I personally have experience of how clause 4 of the section is enforced in practice and how the Income-tax officer exercises his powers under that sub-section. In a particular case the Income-tax officer asked for some unimportant information which could not be given, because no books were kept from which such information could be given. The assessee was assessed at Rs. 25,000 as their income. The matter was subsequently referred to the Commissioner and he ordered another assessor to go into the matter. The result was that only Rs. 500 had to be paid instead of Rs. 25,000. The case lasted 6 or 8 months. I know the difficulties in getting these assessments set aside. Then as regards appeals to the High Court. We have some experience of that in Calcutta. The Commissioner in five or ten cases out of a hundred himself refers the matter for the opinion of the High Court. In other cases we have to move the High Court to compel the Commissioner to send a statement of the case. According to the Income-tax authorities no question of law arises in any case and we have to convince the High Court that there is really a substantial question of law which ought to be argued and discussed in the High Court. In these circumstances I fully support the Bill and I do not understand why there should be a reference to the country. The recent decision of the Privy Council that the question of bad debts should be decided not by the man who knows about the condition of his debtors, but by the income-tax officials, makes it still more important that there should be some sort of assessors or tribunal consisting of non-officials who are acquainted with business methods who will go into a matter of this nature. For these reasons I support the Bill before the House.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : I rise to support the Bill moved by Sir Hari Singh Gour. This Bill, to a great extent, touches the purse of the people and ultimately the money goes into the coffers of the Government, but the real sufferers are the people of the country. I would ask this House to remember that only the other day we have removed several abuses in the criminal law. In the same way, I would ask this House to remove the abuses of the Income-tax Act which have been narrated by other

speakers before me and which have also occurred in my own experience. Several firms, I have come to notice, have suffered, because of the jealousies amongst themselves. If there are two competing firms near about, one informs the Income-tax Commissioner that the other firm is paying less than what is paid by the informing firm, and the result is litigation, appeals and objections which go on for months and months and the matter has to be settled by the High Court as explained by Mr. Sen. This Act appears to the country, in general, as a very arbitrary Act, not supported by any tribunal of assessors. This is an Act of the executive which does not appeal to the feelings of the people. Sir Hari Singh Gour, in a very lucid speech, has explained and asked this House to consider the position, as to why the operation of the procedure under this Act should be different from that which obtains in England. He has quoted instances which, if compared with the Act in British India, would appear to every member to be absolutely arbitrary. If you compare the sections, you will find that in England, there is a tribunal which levies the income-tax, there is a tribunal which assesses the income-tax, there is a tribunal that hears the appeals. If that is the case in the mother country, I do not see any reason why the same case should not hold good in British India. I would appeal to my European friends here. They also suffer a great deal by the operation of this Act. I would also submit that the present Act, as it stands, works in a very harsh manner. People have to take books by cart loads now, but if there is a tribunal, it is very easy for a member of the tribunal to go to the firm and examine the accounts to his fullest satisfaction ; but this is very difficult in the case of one officer, namely, the Assistant Commissioner. Therefore, I submit, that this Bill should be referred to a Select Committee.

The Honourable Sir Alan Parsons (Finance Member) : In the course of eight years spent in this House, I do not think I have ever listened to a Bill being introduced in so cavalier a fashion as that adopted by my Honourable friend, the leader of the Nationalist Party. After an appeal which, I think, I might characterise as an appeal more to prejudice than to reason, which practically did not touch on any of the detailed provisions of his Bill, he announced that if the Bill went to Select Committee he did not stand by a single clause or a single word in it. He, in fact, as far as I could see, wishes to send this Bill to Select Committee with nothing behind it from this House except two rather vaguely expressed general principles, that there ought to be some sort of appeal against assessments to judicial authority, and that there ought to be some sort of association of the non-official public with the assessments to income-tax. I am afraid, I am unable myself to treat quite so airily a measure which 53 or 54 Members of this House originally sponsored, and I must go to some extent more into detail than my Honourable friend, the Mover, did.

I think, however, it will probably make for lucidity if I deal first with the question as to whether there is any necessity for this Bill at all, —whether, in fact, there is really the abuse to be remedied which my Honourable friend claims that there is. I know I am having a difficult task because, after all, none of us likes to have to pay income-tax either in this country or in any other country and we none of us like the inquiries which are made from us by officials to enable them to decide whether we have submitted fair returns. I think therefore I shall have to

[Sir Alan Parsons.]

speak against a not unnatural prejudice in all quarters of the House,—but I would like to take up immediately the question whether there is really any abuse. The argument generally is more or less I think as follows. Assessments are made arbitrarily ; income-tax officers are judges in their own cause ; the Assistant Commissioners of Income-tax sitting in appeal are again judges in their own cause ; and the same with the Commissioners. Now is not that really a catchword, “ being a judge in one’s own cause ” ? Are we not really using a wrong analogy ? As I understand the phrase of a person “ being a judge in his own cause ”, it means a person, by implication probably with very little judicial or legal training, who stands to gain personally by his action and can enforce, as a judge might, his action. Now that is not the position of the ordinary income-tax official. He stands nothing to gain in any way from making an arbitrary, unfair assessment. I know it will be said, “ but he does stand to gain if his collections are large, because he will obtain promotion in his Department and be looked upon as a good officer ”. Actually, Sir, instructions have been issued to stop any such tendency ; and I think it is quite arguable that the tendency of Assistant Commissioners of Income-tax and Commissioners of Income-tax—and it is a common tendency I think of all appellate authorities—is to interfere perhaps a little too much. But I can show to the House that there is nothing done that is in any way unfair to the assessee. I will give the House some interesting figures of what actually happened with regard to appeals and reviews in the last two years. In 1929-30—I am leaving out, I may say, the salaried cases because these do not generally come under either appeal or review—the total number of assesseees was in round numbers 281,000. The number of appeals filed was 21,714—considerably less than 10 per cent. The number of appeals disposed of, including a certain number of arrears, was 21,498 and the successful appeals, appeals which the Assistant Commissioners of Income-tax accepted, were 9,899, or nearly 50 per cent. The review petitions to Commissioners were 3,980 filed, disposed of (with arrears) just over 4,000, and 1,765 were successful. And actually, the financial results of those operations, and of the few references to the High Court, were a refund under the orders of the higher officers of the Income-tax Department of no less a sum than Rs. 92 lakhs, whereas the additional collections made were only Rs. 89,694 ! Sir, do those figures then really show that there is any great abuse of these supposedly arbitrary powers ? Indeed, the following year the figures are in some ways even more striking, but it is hardly worth while my wearying the House with them. Again they show that in about 50 per cent. of cases the Assistant Commissioners accepted the appeals made to them, and the Commissioners accepted the applications made to them for review. I have for that year one further figure. There were 73 references made to the High Court, and only 19 of those references went against the Income-tax Department ! My first contention, therefore, Sir, is that there is nothing in the present position which justifies a radical amendment of the law ; that the assessment and collection of income-tax is, on the whole, very honestly and fairly done, with due regard to the susceptibilities and rights of the assesseees ; and that no case has so far been made out against our present system. In fact the Honourable the Mover made no attempt by

any sort of figures to make out a case for any drastic alteration of our present system.

What are the alterations that my Honourable friend seeks to make ? To begin with, he proposes that in making assessments the Income-tax officer should have with him three or more assessors. Incidentally, I should like to draw the attention of the House to the way in which this Bill has been drafted. It says nothing as to who is to appoint these assessors, who is to decide whether they should be more than three, or points of that description. Now how many of my business friends in this House would really like to have their accounts gone into—as they will have to be if this Bill becomes law—by three or more non-officials, some of whom may be either their rivals in business, or friends of their rivals ? A provision of that sort, I can assure you, Sir, will do away once and for all with all secrecy in the administration of the income-tax law ; and it is for that reason that it has on very many occasions been opposed.

Mr. B. R. Puri (West Punjab : Non-Muhammadian) : What happens in England, with regard to 'secrecy',—where the non-official element goes through the assessments ?

The Honourable Sir Alan Parsons : If the Honourable Member will bear with me, I shall be coming later on to the question of what the Commissioners do in England. In England, the making of the original assessment is a matter purely in the hands of the Income-tax Department. So much for secrecy. I cannot believe that the provision which my Honourable friend inserted in clause 3 of his Bill can be anything but extremely harassing to every assessee in the country. Next, Sir, I am unable to discover from my Honourable friend's speech whether these assessors are to be paid or not. We have at the present moment I think 294 Income-tax officers,—with all of whom apparently three or four more assessors are to be associated. Now are they to be unpaid ? If they are to be unpaid, I think they will be the most public-spirited men I have ever heard of because the number of assessments they will have to make is (excluding salaried persons) in the neighbourhood of 280,000, to whom about 280,000 will now have to be added owing to the reduction of the income-tax limit. We shall have to find gentlemen

4 P.M. who will receive no remuneration of any kind, not even their travelling expenses, to deal with something in the neighbourhood of 600,000 cases of assessment, and many of these cases take more than one day, one day for a single case. For frankly, Mr. President, if they were paid, the cost of any such measure would be so large that, even if it were desirable, it would make it impracticable.

I will now turn to his next proposal, the one which is said to have been based on an analogy of the English law. Actually, it is correct that it is the English law but it is entirely incorrect that it is the English practice. I propose, with your permission, Mr. President, to read an extract from the report of the Royal Commission on Income-tax in Great Britain of 1920. I must also explain that I have ascertained from the inland revenue authorities in Great Britain that the position with regard to this particular point is practically the same now as it was

[Sir Alan Parsons.]

in 1920. I am reading from the end of paragraph 341 and the following paragraphs of that report. It begins by saying :

“ If, therefore, the letter of the law were followed, and the duties laid upon the General Commissioners by the Legislature were in fact performed by them, they would be exceedingly busy men.

As a matter of fact the practical position in these matters differs widely from the theoretical, and differs necessarily, for an attempt by the General Commissioners to carry out the Income-tax Acts literally would result in a breakdown of the machinery. In an important or densely populated division the investigation of all appeals and all claims of exemption and abatement by the Commissioners themselves would necessitate their sitting almost continuously throughout the greater part of the year. Seeing that the General Commissioners are an unpaid body of men, frequently men with many other activities, it has naturally come to pass that many of the duties allotted to them are, with their sanction, performed by the Inspector of Taxes.

It is therefore natural that the bulk of the work involved in the adjustment of assessments and the grant of allowances and reliefs should have fallen gradually upon him. (*That is, the Inspector of Taxes.*) For example, only a very small proportion of the tax-payers who appeal against their assessments appear before the Commissioners, in whom alone the law has vested the power to hear and determine appeals. The great majority of appellants settle their cases with the Inspector, and the Commissioners afterwards give some kind of formal covering authority to the settlements. We were given figures showing that in 22 divisions the number of appeals actually heard by the Commissioners was only 1,263 though the total number of assessments adjusted was 67,796, the remaining 66,533 cases having been settled between the tax-payer and the Inspector of Taxes. We think that nothing is being gained by the maintenance of purely formal sanctions at different stages, which hamper speedy administration.”

I think, Mr. President, that my Honourable friend is unfortunate in choosing for inclusion in his Bill from the English law exactly that provision of the English law of which very little use has been made, and which, as a Royal Commission has pointed out, has tended to hamper the speedy administration of the law.

Finally, I come to my Honourable friend's proposals with regard to the appeal to the High Court. In this matter, the position out here is, as far as I have been able to ascertain, exactly the same as the position in England. A reference is permitted to the High Court on a point of law but not on the question of the amount of the assessment. My Honourable friend's Bill, as it stands, goes far beyond it. It suggests that appeals should go to the High Court instead to the Commissioner. The number of appeals comes, I think, to about 4,000 a year and the proposal in my Honourable friend's Bill will add enormously to the work of the High Courts and not only in that respect. For they will have not only to hear these appeals, but also because by reducing the fee from Rs. 100 to Rs. 15 as he proposes to do in his amendment to sub-section (2) of section 66, they will be saddled with a great increase in the number of references on points of law. Whether the High Courts themselves will approve so large an addition to their labours and whether it will not involve the entertainment of additional judges, I cannot say ; but until there is some further evidence that these appeals are not dealt with fairly by the Commissioners, I suggest to the House that there is no reason for so radical an alteration in our present practice.

Lastly, I should like to refer to two other points. Under my Honourable friend's proposal, the assesses and Commissioners will not be under the control of the Central Board of Revenue but will be a law unto themselves. There will be no uniformity in the administration of the income-tax and I am sure that all Honourable Members, whatever

their opinions, will feel that in a matter of this kind uniformity is most desirable. The second effect of his proposals, I have no doubt, would be that they would lead to delay in assessment and harassment to the assessee, because they will not have the free access they now have to the Income-tax officer and the Assistant Commissioner. That delay will involve a great falling off in the revenue which we derive from income-tax, which will have to be made good from some other source.

For these reasons, Government are uncompromisingly opposed to this Bill. They consider that it would be harmful to the assessee, to the collection of revenue and to the administration of the law, expensive and unworkable. It is a Bill, which, in their opinion, cannot be mended and had better therefore be ended. On the other hand, they recognise that there is some feeling that it should be circulated for the expression of public opinion thereon; and as acceptance of that motion will in no way commit Government to any views different from those which I have now expressed, Government do not propose to oppose that motion.

Major Nawab Ahmad Nawaz Khan (Nominated Non-Official) : Sir, I congratulate my Honourable friend, Sir Hari Singh Gour, for his loyalty and his services that he often renders for his own community to which he belongs with distinction. But, I am sorry to say, this Bill, which he wishes to introduce, if it ever becomes an Act, will be very dangerous for the whole of the Income-tax Department. It will shake the root of the whole Department and will bring disaster to the financial position of the Government of India.

No doubt the objects of the Bill are sweetly worded in a way. Everybody knows that the tendency of the people is to avoid taxation and, if the Bill becomes law, there will be several other ways and means devised to evade income-tax. If such a tribunal, as is asked for in the Bill, is appointed, the nominations to these tribunals will be on communal lines. All Honourable Members who have taken part in this debate have shown a good many defects in the income-tax law from their point of view. I say, there might be some defects which might be remedied in some way or other, but not in the manner suggested by the Honourable the Mover of the Bill so as to make sweeping changes in the law by the appointment of special tribunals especially when these changes will shake the whole root of the income-tax law and will give more chances to people to escape from income-tax and thus deprive Government of the legitimate share to which they are entitled. Therefore, I oppose the motion for referring the Bill to the Select Committee. Whenever an important Bill is introduced in this House or whenever a recommendation is made for referring a Bill to the Select Committee, Honourable Members have always pressed for its circulation so as to invite public opinion. If the Honourable the Mover still wishes to pursue this Bill, the best course will be to circulate the Bill for eliciting public opinion. Through this circulation, the dangers, that I see, will be seen by many other persons and they would suggest some sort of remedy for the removal of those defects and difficulties which many tax-payers have expressed now or as magnified by them. I sympathise in a way with these people and I wish they escape from those oppressions, if at all they exist in certain cases. But I always disagree that the tax-payers should magnify all their wants or difficulties under the present law.

[Major Nawab Ahmad Nawaz Khan.]

There is another danger, that is, if the taxes are reduced by some such clever means, the Government shall be in great need to meet the financial crisis. The Government would then resort to taxation of some other section of people. I know that it has been suggested in some quarters that the agriculturist should be taxed. Well, it is a self-evident fact that the agriculturists are very poor as compared with other tax-payers. If an agriculturist gets even Rs. 5, that is taxed. Why should not the same principle be applied to other tax-payers. I would say, any man whose annual income is.....

Mr. S. G. Jog (Berar Representative) : On a point of order, Sir. Are these observations relevant to the present Bill ?

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Honourable Member goes much wider than the Bill justifies.

Major Nawab Ahmad Nawaz Khan : If the Honourable Member is pleased to hear me for one or two minutes, he will find out whether my remarks are relevant or not. I have no intention of being irrelevant. I am giving vent to real hardship on the part of agriculturists. If the Government are really just, they should tax people whose income is Rs. 100 and over.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Will the Honourable Member please explain how this is relevant to the motion before the House ?

Major Nawab Ahmad Nawaz Khan : There is really danger.....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question of the incidence of income-tax is not before the House. The Honourable Member, by his amending Bill, wishes to improve the procedure in regard to the income-tax law.

Major Nawab Ahmad Nawaz Khan : I support the motion of my Honourable friend, Mr. Mackenzie, for circulation of this Bill.

***Mr. S. G. Jog** : Sir, I have very carefully listened to the observations made by the previous speakers. I really cannot congratulate my esteemed friend and leader, Sir Hari Singh Gour, on the introduction of this Bill which is of a very halting nature. My Honourable friend has been in practice for a very long time, he has been moving amongst people of all classes for a long time and he knows well the ways and the vagaries of the Income-tax Department since a very long time. Instead of making use of his legal knowledge and acumen in bringing forward a measure which will overhaul the whole system of income-tax law, he has come forward with this halting piece of legislation.....

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhammadan) : Has not the Honourable Member, Mr. Jog, signed this Bill himself ? I find his name appended to the Bill.

Mr. S. G. Jog : Not having taken the initiative of making changes throughout the law, for the time being, I felt myself satisfied even with the small measure which he is attempting to introduce.

Mr. Gaya Prasad Singh : So the Honourable Member now explains it in that way.

Mr. S. G. Jog : After having succeeded in introducing this small measure, and getting it passed, probably we will all join in getting the whole Act overhauled. You will generally find, Sir, that in towns and villages this Income-tax Department is, next to the police department, getting more and more unpopular. Why? On account of the ways of assessment. It is very difficult at times for the assessing officers to get some relief in these villages. When these Income-tax officers go to the villages, they are avoided by the village people and, instead of giving any help to them, somehow or other, people think that it is a sort of invasion. In many cases there is no doubt that Income-tax officers have not got sufficient time to go through the accounts or to collect sufficient material to arrive at a judicial finding as to how much amount should be assessed on the assessee. As the Income-tax officers have a lot of work to do, they dispose of their work in a very hurried way without doing any justice to the assessee. I am told that there are secret instructions, demi-official instructions, to the Income-tax officers as to what the probable amount of income-tax for a particular district or a particular province should be and, at times, attempts are made, somehow or other, by hook or by crook, to reach that figure. Sometimes the Income-tax officers think that if the usual assessment is not reached, probably they will be taken to task by their higher officials for not collecting or reaching that figure.

The Honourable Sir Alan Parsons : No such instructions have ever been issued.

Mr. S. G. Jog : The instructions may not be exactly in so many words, but they are asked as to why the assessment in a particular district has fallen.

Mr. N. M. Joshi (Nominated Non-Official) : It is quite natural.

Mr. S. G. Jog : If the subordinate officers are shrewd enough to read between the lines of these instructions, they know what their superior officers mean by them and they try to meet their wishes.

There is no doubt that in many cases, probably because the Income-tax officer has not got sufficient time or he has to deal with so many cases, proper assessment is not made; and, if in each case, the assessee has to go and file an appeal, the Finance Member has probably no idea how costly it would be. Also in many cases there is very little chance of the appeal being successful and in addition to the assessment that is levied by the lower officials, the assessee thinks that he will be spending money needlessly for carrying the appeal through, and so he ultimately submits to the assessment. There is no doubt that the whole thing is done in a very slipshod way and now that this Income-tax Department has been working for so many years, it is absolutely necessary that this old system, which may not be absolutely rotten but, certainly, not up to the mark, should be done away with and we must introduce a system by which this assessment can be said to be judicially made. Many questions of importance arise as to whether a particular property is liable to assessment or to exemption, or whether a particular debt or amount is recoverable or not and whether it should or should not be included in the assessment, and so on. Many questions of legal technicality are always involved in this assessment question and, so far as the knowledge of these Income-tax officers goes, they are wanting in that technical knowledge so as to be able to decide these questions. They

[Mr. S. G. Jog.]

might be dealing according to their own lights with some questions of fact, but they are not able to decide these technical questions ; and what I submit is that there must be an agency or some procedure by which this assessment can be put to a judicial test. The present agency is not and cannot be sufficiently qualified to do this sort of work. In the beginning perhaps it might have been all right. It was a new department and, for some time, probably the department did not like to add more expenses and during the first period they did all right. But now, as things are changing, I think the whole procedure must give way to a more civilised, more systematic and more methodical procedure which will appeal to every assessee and there will not be any reason to complain against these assessments or against the wrong methods or harassments or whatever it might be.

There is a question as to whether this Bill should be sent for circulation or whether it should go to Select Committee. I think even if the Bill be circulated for opinion, there will be an overwhelming opinion in its favour and this House will have sufficient material to see how the Income-tax Department is behaving so far as the assessment is concerned. But I personally think that the wrong or improper way of doing things,—I will not say abuses,—is so familiar that it is not necessary to send the Bill for circulation. Everybody knows that there is something wrong in the procedure of the Income-tax Department which must be set right, and I will support the motion that it be sent to Select Committee. I am really glad that the attention of the Finance Member has been drawn to the long list of signatures appended to the Bill. That is sufficient to show that there is a strong public opinion behind this measure and it is sufficient to satisfy the Finance Member that so many people require a change, a change which is absolutely necessary and must be made. I support the motion for reference to Select Committee.

Mr. B. R. Puri : Sir, I should have thought that there were some measures which hardly needed any speeches to support them. The measure which is now before us for our consideration is so manifestly fair, that I for one think that it requires no elaborate arguments to justify its adoption. My Honourable colleague, the Leader of the Opposition, has been criticised in certain quarters for failing to ask for the complete overhaul of the income-tax law, and I think there is some justification for that criticism. The Income-tax Act is so replete with defects that it would not be too early to ask for a complete revision of that law. But, Sir, there is such a thing as overdrugging a patient and, I think, my Honourable friend, Sir Hari Singh Gour, has acted very tactfully and discreetly in not asking too much, because, even the modest demand which is involved in this Bill has proved too big a pill for the Honourable the Finance Member to swallow.

Now, Sir, what is, after all, the nature of the Bill which is before us ? The Bill is a very fair measure and, as I have said, a perfectly modest measure. It really has for its object the inclusion of the non-official element for the purpose of determining the assessment of income-tax. Hitherto the assessment, according to our non-official experience, has been conducted in a very oppressive manner and, therefore, it is but a just demand that we should ask that non-officials should also be co-opted with the agency which is responsible for the assessment of income-tax. What are the objections

against it? I have heard two-fold objections. One Honourable Member remarked that if we committed such a folly as to invite the co-operation of non-officials to take part in the matter of assessment of income-tax, all the trade secrets would be thrown to the winds and non-official people would henceforth be in possession of secret and confidential statistics and information which it would not be in the interest of the trade to disclose. Sir, in support of the procedure which is demanded in the present Bill, the Honourable the Mover has drawn the attention of the House to the practice which prevails in England; and I took the liberty of interrupting the Finance Member,—for which I apologise,—and asking him whether he could throw some light on how things work out in England, whether secrets there are disclosed, to the prejudice of the trade and commerce, or whether people there are so unmindful of their commercial interests that they do not care whether their rivals or their competitors in trade come to know the inner working and the secrets of their profession. If a thing is good enough there, I do not see what possible objection and fair argument can be advanced in not introducing the same system which has worked well in another country. But, side by side with this argument, there has been advanced another argument against the inclusion of non-officials for this purpose, and, that is, that he would introduce a communal question into the matter. It pained me to hear that argument, for one thing, because when this sort of argument is advanced, I, in my own mind, am certain that no better argument is available to the opposite party. When there is nothing better available, resort is made to an argument of this nature. Let us examine it on its own merits. The argument is that if you engage the services of a non-official, he is bound to bring with him the communal feelings; if he is a Hindu, he is bound to go against the Muhammadans; if he is a Muhammadan, he is bound to go against the Hindu assesses.

Mr. B. Das : And if he is a European ?

Mr. B. R. Puri : He will go against both or else against neither in which case he will be no good to the Department. Now, let us examine this argument. Why apply this communal consideration only to non-officials? If there can be non-official communalists, cannot there be official communalists? Have you not got such people in service already?

Major Nawab Ahmad Nawaz Khan : Officials have more responsibility than the non-officials.

Mr. B. R. Puri : I wish they had and I wish that the non-officials also felt their responsibility better. As I said, if communalism can prejudice and blind the non-officials, cannot it equally prejudice and warp the intellect and intelligence of the officials? Do you seriously maintain that a Hindu becomes a very superior man, a super-Hindu, and friendly to Muhammadans the moment he is clothed with some sort of authority? Ask my Muhammadan friends if they have got that confidence in Hindu officials; and ask the Hindu members if they have got such confidence in the Muhammadan officials—I am stating a perfectly candid truth before the House. If, therefore, the official communalists are permitted to carry on this work of assessment to the prejudice of the class to which they do not belong, by what fair argument can you urge that non-officials, by being included for the purpose of assessment, will bring into the arena a consideration which hitherto does not exist? Therefore, there does not seem to me to be any substance in this argument at all.

[Mr. B. R. Puri.]

Let us get on to the next point. The next demand which the Bill makes is that the Income-tax Department should not sit in judgment over their own acts. After all, there cannot be any possible objection to the impartiality of a tribunal like the High Court. There does not seem to be any reason why the High Court should not be allowed to give its final and impartial judgment where complicated questions, either of fact or of law, are involved connected with the Income-tax Department. The only objection which I have heard from my Honourable friend, the Finance Member, is that, according to his statistics, there would be about 4,000 appeals or references which would be taken to the High Court and the valuable time of the Honourable Judges of the High Court will no doubt be wasted. The argument, no doubt, on the face of it, sounds plausible. But might I ask, who disposes of these appeals at the present moment? Is it not the Commissioner of Income-tax? How many Commissioners of Income-tax dispose of these appeals successfully and expeditiously? If there is only one Commissioner of Income-tax, as I understand it is, who is capable of disposing of all these 4,000 appeals, the High Court, with the personnel of nearly 15 or 16 Judges, or say 12 on an average, should be able to manage it easily.

The Honourable Sir Alan Parsons : May I explain that there is a Commissioner of Income-tax in each province....

Mr. B. R. Puri : And so there is a High Court in each province.

The Honourable Sir Alan Parsons : and that most of his time is occupied with these appeals?

Mr. B. R. Puri : Very well; if there is one Commissioner of Income-tax in each province, let us take one judge from each High Court in each province. How would the Government suffer? It will promote greater confidence amongst the people if the final authority to hear appeals in income-tax cases is not a member of that department, but a disinterested impartial Judge of a High Court.

Rao Bahadur B. V. Sri Hari Rao Naydu (Madras : Nominated Official) : You will have to employ one extra High Court Judge in each province.

Mr. B. R. Puri : The High Court Judge will not be extra, because then your Commissioner will be relieved of the duty he is now doing. The work will be transferred from one official to another; instead of the Commissioner disposing finally income-tax cases and appeals, it would be a High Court Judge and any day you will agree that it would be better arrangement.

Rao Bahadur B. V. Sri Hari Rao Naydu : What about the cost? A High Court Judge will cost 4,000 rupees a month, while a Commissioner probably gets much less.

Mr. B. R. Puri : The Commissioner is not doing the work gratis. How much salary he draws, I do not know; my Honourable friend may know more; but, I dare say, that he is not drawing less than Rs. 3,000 a month.

Rao Bahadur B. V. Sri Hari Rao Naydu : No.

The Honourable Sir Alan Parsons : I do not know the exact amount that is paid; but it is certainly less than Rs. 3,000.

Mr. B. R. Puri : When we actually come to that stage, I think we will be able to adjust the salary. If everything else goes through, we will not be held up by the consideration of salary. That leaves only one little point and that is this ; that the number of appeals at the present moment is quite large, that the number of appeals in which the Commissioners interfere shows a fair proportion. Therefore, so far as the disposal of appeals is concerned and so far as the sense of impartiality, the Commissioners and Assistant Commissioners are not actuated by any departmental ideas and feelings, because, in a very large number of cases, they actually interfere. This sort of statistics are very misleading. In any way they are not conclusive, because, after all, over and above these statistics, it is very difficult to say what would be the number of appeals if they were to be handled by an outside agency. There is no doubt a very strong feeling among the public, and it is a reasonable feeling also, that an appeal against a subordinate member of a department to the head of that very department has got very little prospect of success. Therefore, Sir, we have got to wait and see when better conditions are introduced, namely, when more independent agencies are employed for hearing and disposing of the appeals against the deeds or misdeeds of a particular department, it will then be for us to see how far your present statistics are sound or otherwise, and then alone we will be able to see what is the number of cases that really succeed in appeals.

Mr. P. G. Reddi (Guntur *cum* Nellore : Non-Muhammadan Rural) : I move, Sir, that the question be now put.

The motion was adopted.

Sir Hari Singh Gour : Sir, my friend, the Honourable the Finance Member, is evidently reading from his notes for which he was not responsible ; but if he had consulted Sir Alan Parsons I do not know whether he would not have agreed with me. His feeble and special pleading left this House cold. He, first of all, pointed out that he did not quite understand what is meant by a phrase " a Judge in his own cause ". Well, to the Honourable the Finance Member I will say, it means that the Income-tax officer is the appellate court in the matter of assessment which he may fix himself. That is the meaning of the phrase ' judge in his own cause '. He is the assessor, he is the judge, and he sits in judgment over his own act.

Then my friend pointed out that though my description of the English law was theoretically right, in point of practice the Income-tax Department makes that assessment, and he quoted an antediluvian report of 1920 and said that that, he was informed, was also the present law. I hold in my hand.....

The Honourable Sir Alan Parsons : Present practice, Sir.

Sir Hari Singh Gour : I hold in my hand a recent book called the " Complete Practical Income-tax " by Mr. A. G. McBain, Chartered Accountant, an expert in income-tax law, and let me present these few sentences to the Honourable the Finance Member so that he might correct his notes for future guidance. This is what the present law is and has been for the last ten years.

The Honourable Sir Alan Parsons : May I explain, Sir, that I said nothing about the law, I said what the practice was.

Sir Hari Singh Gour : I think my friend did not hear me properly, I say what the present practice is. We are at issue as regards the present practice, and I hope the Honourable the Finance Member will inform the Royal Commissioners of 1920 that their Report was wide of the mark, because here is a book written by a man who is a practical income-tax expert. And this is what he says on the very first page :

“ All duties of income-tax are under the care and management of the Commissioners of Inland Revenue, Somerset House, London. The actual assessments, however, (with the few exceptions specifically provided for in the Act) are finally ‘ allowed ’ by two bodies, the General Commissioners and the Special Commissioners. The General Commissioners are usually seven in number, and fill vacancies themselves. In most cases they are prominent business men or land owners in the district, are unpaid, and must possess a certain property qualification.”

Then he gives a description and says that the tax-payer can be represented by an Agent, and so on, and the rest of it I have given in my notes on clauses. Therefore, not only theoretically but practically to-day and for a long number of years the income-tax law in England has been administered by unpaid popular agencies, and an English Income-tax assessee would never have tolerated the spectacle of a statutory enactment of Parliament being treated as a dead letter. So much for the practice of English law.

Then my friend said you want to change the present law—it is an ideal law, a most satisfactory law. It is ideal to him, satisfactory to him and his department, but it is galling to the whole country. And let the Government once for all take notice of the fact that if there is one tax which has created deep discontent throughout the length and breadth of this country, it is the income-tax procedure.....

Mr. N. M. Joshi : How many tax-payers are there ?

Sir Hari Singh Gour : My friend, Mr. Joshi, says—how many tax-payers are there, let them be bled. If injustice is done even to one man, I shall rise up in arms against it and see that justice is done even to that one solitary man. Numbers do not matter. What matters is injustice, and this House has again and again vindicated its right as the forum of public opinion regardless of the number of people to be benefited by it.

Then, Sir, we are told, why do you want to change the law ? If you want to have assessors, you will have difficulties in finding men, and a henchman of my friend ejaculated “ Oh, communal considerations would arise ”. Now, Sir, as regards the appointment of assessors, Honourable Members of this House know that there were assessors even under the Indian Act, but these have been done away with only recently. There was no complaint that the assessors attached to all Income-tax Departments did not serve a useful purpose. As regards the communal feeling, does my friend not remember that now, since 1923, a very large number of murder cases are now tried with the help of a jury, and the jury system throughout India has been found to be very satisfactory ? And, if there is no communal feeling when the man is being tried for his life, how can you expect that there would be any communal feeling when these gentlemen advise the Income-tax Officer as to what are the financial resources of a proposed assessee ? Sir, I treat this argument, coming as it does from a nominated Member, with that unmentioned silence which it deserves. I submit, my countrymen would rise above their communal

feeling. They have risen sitting upon the High Court Bench, sitting in the Jury Box, doing their public duty regardless of any public feeling or communal prejudices.

Then, Sir, we have been told—look at the number of appeals that have been admitted. Sir, I remember one of my friends said that I had a very long experience at the bar. Sir, I have. And do you know how the Income-tax Department prepares statistics? An appeal is admitted to the extent of Rs. 5, and that becomes an appeal admitted. Then my Honourable friend quietly goes into the facts and says how far the assessee has been relieved by the Income-tax Department, but he fails to mention to what extent he is being oppressed. The whole method of assessment is vicious. You have the Income-tax Officer. The appeal goes to the Assistant Commissioner, who is an officer of the same Department. Then it goes to the Income-tax Commissioner who is responsible for the collection of income-tax in the whole province. Can you expect a departmental head, who has got attachments to his own department, and whose pay, promotion and prospects are in the hands of the department—can you expect him to do justice to the unfortunate assessee? If you find that this year he has collected one crore of rupees, and in the next year the income has gone down to Rs. 50 lakhs, does my Honourable friend, for a moment, suggest that the department would not ask for an explanation as to why there has been a sudden fall in the revenue? Surely, I wish to re-emphasise what I have been saying before, that whatever may be the doings of the Income-tax officers, we do not wish to place them in a position where their interests will come in to very direct conflict with their obvious duty. That is what we wish to avoid, and that, I submit, is the fundamental creed of having an impartial and judicial tribunal to sit in judgment over all assessments. That is the established law of England under which, as I said in my opening speech, every assessee is entitled to appeal in spite of the several preliminary safeguards I have referred to. Those safeguards I have not provided in my Bill, but I submit that the procedure requires a radical change, and as my Honourable friends on the back benches have pointed out, my Bill is a very modest Bill. I recognise that it is a modest Bill, and I am surprised that it should have been opposed by the occupants of the Treasury Benches. That shows the extent to which the reactionary element is preponderating in the Government of India. They cannot possibly fail to realise the trend of public opinion. Have they not seen the reports to which I adverted? Have they not read that judges after judges have been condemning this procedure and calling for a change? When a Judge of the Calcutta High Court makes some remarks purely in the nature of *obiter dicta*, down came the Government with all their massive battery, a Bill is drafted and circulated by executive action, and in supersession of all other business it is put in train for enactment by this House. That is when it suits them, but when it does not suit them, they begin to ask questions, what Judge, why is the evidence like this, and how is it relevant—that is done when it does not suit them. That is not the way to govern a great Empire; that is the way to lose it. I warn you that if you, within the few months or years that lie before you, do not show a greater sense of fair play and justice to this country, your accumulated injustices, your accumulated and multiplied wrongs would create, as indeed, they are creating, a growing discontent in this

.. [Sir Hari Singh Gour.]

country the end of which I know not, but the end of which you may soon see and regret. (Cheers.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question which I have now to put is :

“ That the Bill be circulated for the purpose of eliciting opinion thereon by the 2nd January, 1933.”

The motion was adopted.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : It is now five o'clock, and I think no new Bill can be taken up now. The House will stand adjourned till 11 o'clock to-morrow.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 21st September, 1932.