

Wednesday, 21st September, 1932

THE

# LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

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*(20th September to 30th September, 1932)*

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FOURTH SESSION

OF THE

FOURTH LEGISLATIVE ASSEMBLY, 1932



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1933

# Legislative Assembly.

## *President :*

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.

MR. G. MORGAN, C.I.E., M.L.A.

MR. MUHAMMAD YAMIN KHAN, C.I.E., M.L.A.

## *Secretary :*

MR. S. C. GUPTA, C.I.E., BAR.-AT-LAW.

## *Assistants of the Secretary :*

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.

*Wednesday, 21st 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.

### GRANT OF FACILITIES TO RELATIVES OF POLITICAL PRISONERS TO INTERVIEW THEM IN THE ANDAMANS.

519. \*Mr. S. C. Mitra : (a) Will Government be pleased to state whether arrangements have been made to supply facilities in the form of free passages to the Andamans or otherwise to the prisoners' relatives and friends for interviews ? Is it a fact that they are entitled to these facilities according to the Jail Code ?

(b) If not, are Government aware that in the absence of such facilities interviews of relations will be an impossibility ?

(c) Are Government aware that the Indian Jails Committee has condemned absence of interviews in such unequivocal terms as " That the removal of a prisoner far from his home and an almost complete severance, which this involves, of all ties with friends and relatives is demoralising and undesirable " ?

The Honourable Mr. H. G. Haig : (a) and (b). Interviews with prisoners of their relatives are permitted under the Jail rules, but it is not the practice to grant any travelling facilities to their relatives or friends and Government do not see any reason for a departure from the general practice in regard to the prisoners in the Andamans.

(c) The words quoted by the Honourable Member occur in paragraph 564 of the Report as one of the arguments that could be used in favour of the complete abandonment of the penal settlement. As perhaps the Honourable Member is aware, the Jail Committee did not recommend that policy, but the retention of the Andamans as a place of deportation for a small class of selected prisoners whose removal from India is considered by the Government concerned to be desirable in the public interest.

Mr. Lalchand Navalrai : Does the Honourable Member know that when the detenus were sent to Deoli, promise was given that special consideration will be given for affording facilities for their relatives to visit them.

The Honourable Mr. H. G. Haig : The question we are dealing with relates to the Andamans, not to Deoli.

( 1051 )

## SUPPLY OF CLOTHING TO POLITICAL PRISONERS IN THE ANDAMANS.

520. \*Mr. S. C. Mitra : What arrangements have been made for the supply of extra clothing to the deportees to the Andamans as recommended by the Indian Jails Committee in view of the fact that there is a heavy rain-fall for about nine months in the year ?

The Honourable Mr. H. G. Haig : Jail clothing is issued to prisoners on admission to the Cellular Jail in accordance with the prescribed scale. Inside the Jail, prisoners are not exposed to weather, as they work and take their meals in corridors when the weather is wet. Self-Supporters and *Talabdars* except in a few selected appointments clothe themselves at their own expense. Waterproof capes and umbrellas may be supplied under orders of the Chief Commissioner to *Talabdar* convicts who are exposed to the weather while at work.

## MEDICAL EXAMINATION OF POLITICAL PRISONERS IN THE ANDAMANS.

521. \*Mr. S. C. Mitra : Have Government arranged for periodical weighing and careful regular and frequent medical examination of the prisoners in the Andamans ? Are Government aware that the climate of the Andaman island has been found specially unsuitable for patients suffering from phthisis ? If so, do Government propose to issue instructions to the authorities in the Andamans for the immediate re-transportation to India of the cases of phthisis in its early stage or in cases of suspected phthisis as revealed by medical examination ?

The Honourable Mr. H. G. Haig : Under the rules contained in the Provincial Jail Manuals no convict may be deported to the Andamans who is suffering from *phthisis pulmonalis*. In the settlement there is a competent medical staff, and the orders provide that, tubercular convicts must be sent back to their province as soon as the disease is diagnosed, after examination by a Medical Board as to their fitness to travel. I propose to send a copy of the Honourable Member's question and my reply to the Government of Bengal and the Chief Commissioner of the Andamans.

## RE-ARREST OF CERTAIN BENGAL POLITICAL PRISONERS.

522. \*Mr. S. C. Mitra : Are the Government of India aware that several prisoners in Bengal convicted of political offences were released before the expiry of their full term of sentence and after a lapse of years they have now been again sent to jail to undergo the rest of their sentence without being placed before a magistrate for re-trial ?

The Honourable Mr. H. G. Haig : There have been two such cases.

## RE-ARREST OF CERTAIN BENGAL POLITICAL PRISONERS.

523. \*Mr. S. C. Mitra : Are Government aware that Mr. Nikhil Ranjan Guha Roy and Mr. Narendra Mohan Ghosh Chaudhury were sentenced to transportation for life on February 16th, 1916, in the Shibpur Bomb Case and were transported to the Andamans but were released after more than ten years at the end of the year 1926 and now in 1932 they have been sent back to jail to complete the rest of their sentence without placing them before any court of law nor giving them any chance to explain

anything against them and that they have not been convicted of any offence in any court of law in the meantime ?

**The Honourable Mr. H. G. Haig :** I would invite the Honourable Member's attention to section 401 (3) of the Criminal Procedure Code, under which, if a sentence is remitted or suspended conditionally and if, in the opinion of the Local Government, the condition is not fulfilled, the person may be re-arrested and remanded to undergo the unexpired portion of the sentence. In both these cases orders were issued by the Local Government under this section cancelling the orders remitting the unexpired portions of the sentences and remanding these two persons to prison to undergo the unexpired portions of their sentences. The reasons are that in both cases, in the opinion of the Local Government, one of the conditions of release had not been fulfilled.

**Mr. D. K. Lahiri Chaudhury :** What is the significance of imprisonment ? I understand that one of the aspects of imprisonment for long years is that the conviction may have the chance of improving his conduct. When you arrest a person after such long detention in Jail, you ought to give him a fair opportunity of proving his conduct on which re-arrest is made.

**The Honourable Mr. H. G. Haig :** I am not sure how that question arises out of the matter we are dealing with, which is a case of prisoners who have been granted a conditional remission, and not fulfilling the condition have been remanded to prison.

**Mr. Lalchand Navalrai :** Will the Honourable Member be pleased to say if these men had a chance of explaining themselves ?

**The Honourable Mr. H. G. Haig :** I have no doubt that the Government did not take action without very full consideration of the facts against them but there is nothing in the nature of a re-trial necessary.

**Mr. Lalchand Navalrai :** The question was whether these persons before they were remanded were given an opportunity to explain themselves.

**The Honourable Mr. H. G. Haig :** I am afraid I cannot give a definite reply on that point. The information in my possession does not cover that.

**Mr. Lalchand Navalrai :** Will the Honourable Member find out that information ?

**The Honourable Mr. H. G. Haig :** Yes, Sir.

**Mr. S. C. Mitra :** Will Government be pleased to inquire into the special circumstances of this case. These persons were released after 16 years' imprisonment and then they were left free for ten years and now they are again being sent back to jail without placing them before a magistrate. Will the Honourable Member kindly inquire what investigations Government made in the meantime to satisfy themselves that they have infringed some of the conditions ?

**The Honourable Mr. H. G. Haig :** I have information that the infringed condition was a very definite one. It was not a mere indefinite surmise.

**Sardar Sant Singh :** Does not Government regard it as scandalous to send them to jail after ten years ?

**The Honourable Mr. H. G. Haig :** If a man is sentenced to imprisonment and is released on conditions and he does not observe those conditions, I cannot see that there is anything scandalous in sending him back to prison.

**Sardar Sant Singh :** There is a Limitation Act for civil action. May I inquire whether any inquiry has been made, judicial or otherwise, as to whether the definite conditions upon which they were released have been broken.

**The Honourable Mr. H. G. Haig :** I can inform the Honourable Member that it was on account of a breach of a definite condition that these two persons were sent back to complete their sentence. This is the condition "He shall take no part directly or indirectly in anything that is an offence under the Arms Act or the Explosive Substances Act".

**Mr. S. C. Mitra :** Cannot the Honourable Member comprehend that there may be suspicious circumstances which the persons suspected may alone be in a position to satisfy the Government, if they were given a chance to explain their conduct ?

**The Honourable Mr. H. G. Haig :** The law puts the discretion in the hands of the Local Government. It provides that if in the opinion of the Local Government the condition is not fulfilled then that action may follow.

**Mr. S. C. Mitra :** I fully agree, but cannot the Honourable Member comprehend that these convicted persons may explain the apparent suspicious circumstances.

**The Honourable Mr. H. G. Haig :** I have already said that I will find out what particular inquiry was made.

**Mr. Lalchand Navalrai :** May I know whether the condition was broken by his using arms ?

**The Honourable Mr. H. G. Haig :** I am afraid we cannot try the case here on the floor of this House.

**Mr. Lalchand Navalrai :** I want to know the fact—if that was a condition ?

**The Honourable Mr. H. G. Haig :** The numerous questions of the Honourable Member directed at me almost amount to a trial of the case on the floor of this House. (Laughter.)

**Mr. Lalchand Navalrai :** Is the Honourable Member not in possession of this fact ?

**Mr. K. C. Neogy :** Will there be a trial of the case *anywhere* ?

**Mr. S. C. Sen :** Is it not a fact that the conditions mentioned do not state that the persons should be found guilty 'in the opinion of the Local Government' ? That is not stated in the conditions. It is an absolute condition whether they will be guilty of having arms, or anything of that sort.



**The Honourable Mr. H. G. Haig :** I would refer the Honourable Member to the terms of section 401 of the Criminal Procedure Code, which contain the words " if in the opinion of the Local Government any of the conditions are not fulfilled ".

**Mr. B. Das :** Will the Honourable Member apply such conditions to the parallel case of my Honourable friend, Mr. S. C. Mitra, a late detenu of the Mandalay Jail, and, in view of his putting so many cases on detenus for our consideration showing his leaning towards these prisoners, despatch him again to Mandalay ? (Laughter.)

**The Honourable Mr. H. G. Haig :** I think the Honourable Member was not convicted of any offence.

**Mr. S. C. Mitra :** Do not the ends of justice demand that such men should be prosecuted and convicted of having helped in smuggling, before they are condemned in Jail for life ?

**The Honourable Mr. H. G. Haig :** No, Sir. If special concessions have been made to a prisoner and it is found that he has abused them, I see no reason why this procedure should not be followed.

#### FAMILY ALLOWANCES OF STATE PRISONERS.

524. **\*Mr. S. C. Mitra :** Will Government please state the amount of family allowance granted to each of the State prisoners under Regulation III of 1818 ?

**The Honourable Mr. H. G. Haig :** I would refer the Honourable Member to the statement I laid on the table in connection with Sardar Sant Singh's question No. 163.

#### NON-GRANT OF A FAMILY ALLOWANCE TO STATE PRISONER, RASICK LAL DAS.

525. **\*Mr. S. C. Mitra :** (a) Is it a fact that Government have not yet granted any family allowance for Mr. Rasick Lal Das who is a State prisoner confined probably in the Peshawar jail ?

(b) Are Government aware that he has left two old lady relatives, his widowed mother and aunt, aged over 70 years who were fully dependent on him ?

(c) Are Government aware that his old widowed mother is suffering from asthma and the aunt is down with rheumatism and both of them are now starving from want of any income ?

(d) How many petitions have Government received from his mother and aunt praying for the grant of a petty allowance only to cover their maintenance expense ?

(e) Do Government propose to enquire whether they have any other relatives to maintain them ? If not, why not ?

(f) Will Government be pleased to state the date of their last petition to Government and what was the reply of Government to their petition for allowance ?

(g) Do Government propose to re-consider the case of granting a small maintenance allowance for the two old widow dependents—his mother and aunt—of Rasick Lal Das ?

**The Honourable Mr. H. G. Haig :** The Government of India have received three petitions on the subject—the last dated the 5th August, 1932—from the mother of State Prisoner, Rasick Lal Das. The case has been carefully examined more than once, but the Government does not consider that the grant of a family allowance is justified since the State prisoner's relatives were not dependent on him for support prior to his arrest. They live in a joint family and the income derived from their landed property is reported to be sufficient for their support.

**Mr. S. C. Mitra :** Is not the Honourable Member aware that after the arrest of the only male member in the family, there is no one even to cultivate those lands ?

**The Honourable Mr. H. G. Haig :** Sir, there appears to be a conflict of opinion on the point, but our inquiry shows that that is not so.

**Mr. S. C. Mitra :** As the result of the inquiry, is not the Government satisfied that these two old ladies—mother and aunt aged more than 70 years—have no other male relations and no source of income excepting that which could be derived from their lands ?

**The Honourable Mr. H. G. Haig :** No, Sir. The result of the inquiries we have made is that the two old ladies were not dependent on the prisoner for their support.

**Mr. S. C. Mitra :** Is it not a fact that although they have lands, they have only one male member, who is now a deportee ?

**The Honourable Mr. H. G. Haig :** Our inquiries show that nearly all the income was derived from landed property.

**Mr. S. C. Mitra :** Income from cultivation, or rent realized ?

**The Honourable Mr. H. G. Haig :** Income from landed property.

**Mr. B. Das :** Did the Honourable Member consult his colleague, the Honourable the Finance Member, on the point that owing to the economic depression the income from land is almost nothing and does not meet the cost of production of the crops ?

**The Honourable Mr. H. G. Haig :** That, Sir, I am afraid is a normal condition of life in these days ; but we all have to adjust our modes of life to our reduced incomes. (Laughter.)

#### PAYMENT OF THE PREMIA DUE ON THE LIFE INSURANCE POLICIES OF MR. SARAT CHANDRA BOSE, A STATE PRISONER.

526. **\*Mr. S. C. Mitra :** (a) Did Government receive any representation from the wife of Mr. Sarat Chandra Bose, Bar-at-Law, a State Prisoner under Regulation III of 1818 for payment of the premiums of the policies of insurance taken out by Mr. Sarat Chandra Bose ? If so, what is the total number of such policies ?

(b) Are Government paying the premia on all the policies ? If not, will they be pleased to state as to the number of policies on which premia are being paid ?

(c) Are such payments paid for the continuance of these policies ? If not, for what purpose are they being paid or have been paid ?

(d) Have Government refused to pay the premia in respect of any of these policies ? If so, in respect of how many policies and on what grounds ?

(e) What is the total amount of the annual premia payable in respect of these policies and what is the payment of premium which had been asked for by Mrs. Bose ?

(f) What is the total amount proposed to be paid in the course of one year ?

(g) Are Government paying the premia on all the life policies of other State prisoners ? If so, what is the reason for making a distinction in the case of the policies of Mr. Sarat Chandra Bose ?

(h) Are Government aware that there is a great pecuniary loss involved in the matter of reviving surrendered or forfeited life insurance policies and in cases of elderly people no revival is allowed who deteriorate in health in the meantime ? If not, do they propose to enquire ? If not, why not ?

**The Honourable Mr. H. G. Haig :** (a) Yes. The total number of policies is nineteen.

(b), (c) and (d). The payment of premia amounting to Rs. 667|13|0 half yearly on one policy has been sanctioned till it acquires a surrender value, when it will be open to the representatives of the State Prisoner to make arrangements for the continuance of the payment of premia against the surrender value. A refund of Rs. 1,673|7|0 has also been sanctioned, as the equivalent of the single premia paid by the State Prisoner, in respect of three other policies on which no benefits had accrued prior to his arrest. No premia are being paid by Government in respect of the remaining 15 policies.

(e) The total amount of premia payable was, I understand, approximately Rs. 14,400 per annum, which was the amount asked for by Mrs. Bose.

(f) I have given the information in the reply to parts (b), (c) and (d) above.

(g) and (h). I would refer the Honourable Member to the reply I have given to Mr. S. C. Sen's questions Nos. 226 to 229.

#### **PAYMENT OF THE PREMIA DUE ON THE LIFE INSURANCE POLICIES OF MR. SARAT CHANDRA BOSE, A STATE PRISONER.**

**527. \*Mr. S. C. Mitra :** (a) Are Government aware that Mr. Sarat Chandra Bose has developed diabetes in jail ?

(b) Is it a fact that diabetic people are not permitted to renew their life insurance policies at ordinary rates ? If so, are Government aware that higher rates of premia will have to be paid from the estate of Mr. Sarat Chandra Bose if any fresh insurance is to be effected on his return from jail ?

(c) Are Government aware that if the surrendered, discontinued or paid up policies of Mr. Sarat Chandra Bose are to be revived at a later date, it will mean payment of increased rates of premia from the estate of Mr. Sarat Chandra Bose and, if so, will they be pleased to state

the reasons as to how such revival of lapsed or paid up policies " will not mean damage to the estate " as stated by Government in reply to a representation from Mrs. Bose ?

**The Honourable Mr. H. G. Haig :** (a) No, Sir. I would refer the Honourable Member to the reply given by me to part (a) of his question No. 199.

(b) The amount of premium no doubt depends, among other things, on the age and state of health of the persons seeking to be insured.

(c) Fifteen policies in respect of which Government is not paying premia have already acquired a surrender value. It is open to the representatives of the State Prisoner to make arrangements with the Insurance Companies concerned by which the payment of premia can be continued against the surrender value or by which in some cases the policies can be converted into paid-up policies. In regard to the remaining four policies, I would refer the Honourable Member to the reply I have just given to parts (a), (c) and (d) of his question No. 526.

**Mr. K. C. Neogy :** In view of the fact that the payment of premia out of the surrender value acquired under any policy can be continued up to a particular time having regard to the amount that may be held at credit on that account, is the Honourable Member in a position to state that Mr. Bose will be released before that period of time is over so that he may keep up his insurance policies ?

**The Honourable Mr. H. G. Haig :** I understand premia can be paid on the basis of the surrender value for a very long period, and I hope we shall not have to consider the detention of Mr. Bose for periods of 10, 15 or 20 years. (Laughter.)

#### INTERVIEWS WITH DETENUS IN JAILS.

528. **\*Mr. S. C. Mitra :** (a) Will Government please state who is the sanctioning authority to permit interviews with detenues detained in jails or camps outside Bengal under the Bengal Criminal Law Amendment (Supplementary) Act ?

(b) How many persons dealt with under the above Act have been sent out of Bengal and what are the places where they have been detained ?

(c) How many of the detenues are now in Deoli Camp Jail in Ajmer and from what date ?

(d) Has any interview been allowed to any of the relatives, friends, etc., of any of these detenues ? If so, to how many of them and how many times ? And what are the names of such detenues who were granted interviews ?

(e) Are the detenues entitled to interviews with their relatives as of right or does it depend upon the sanctioning authority ? In case of option are the sanctioning authorities required to give reasons for refusal to grant interviews ?

**The Honourable Mr. H. G. Haig :** (a) and (e). Interviews are permissible to such persons as have satisfied the Superintendent that they

have received permission from the authorities appointed for that purpose by the Government of Bengal. The Government of Bengal have appointed the Deputy Inspector General, Intelligence Branch, to carry out these duties.

(b) and (c). 92. Deoli Camp Jail is the only place to which detenus have been removed outside Bengal. They arrived there in batches towards the end of May, and the beginning of June, 1932.

(d) I am afraid I cannot undertake to give details about interviews granted to detenus.

**Mr. Lalchand Navalrai :** Will the Honourable Member be now pleased to answer the question which I put some time ago, namely, whether at the time the detenus were being transferred over there there was a promise given that special consideration would be shown to them? May I know whether, with regard to these individuals also, special consideration is being shown or just the ordinary consideration that is shown to other prisoners?

**The Honourable Mr. H. G. Haig :** I have no recollection, Sir, of any assurance that they will be given special consideration. I thought the assurance was that, as far as possible, the conditions under which they were detained in Bengal would be reproduced.

**Mr. K. C. Neogy :** What is the place nearest to Deoli where relatives of the detenus can stay for the purpose of interviewing them?

**The Honourable Mr. H. G. Haig :** I do not know whether there are any facilities in Deoli itself. The nearest large place is Ajmer.

**Mr. K. C. Neogy :** How far is Ajmer from Deoli?

**The Honourable Mr. H. G. Haig :** About 70 miles, I fancy.

**Mr. K. C. Neogy :** And what is the means of transport between Ajmer and Deoli?

**The Honourable Mr. H. G. Haig :** I expect motor buses run; they do in most places.

**Mr. B. Das :** Is it a fact that my Honourable friend, Mr. S. C. Mitra, was not allowed to see his nephew in the Deoli prison?

**The Honourable Mr. H. G. Haig :** That may be so, Sir. I have a record from the Government of Bengal of refusal of one interview, and that is possibly the one.

**Mr. K. C. Neogy :** I think the Honourable Member said in reply to a previous question that the administrative authority with regard to the Deoli Detention Camp is the Government of India and that the Government of Bengal merely finds the money for it?

**The Honourable Mr. H. G. Haig :** No, Sir. I said that the administrative authority was the Chief Commissioner of Ajmer-Merwara.

**Mr. K. C. Neogy :** I thought the Chief Commissioner was under the Government of India?

**The Honourable Mr. H. G. Haig :** No doubt he is, but the direct administration is carried on by the Chief Commissioner, Ajmer-Merwara; but as I have explained in my answer to this question, the statutory

rules which have been made by the Chief Commissioner of Ajmer-Merwara lay down that permission for interviews has to be given by the authority appointed for that purpose by the Government of Bengal.

**Mr. B. Das :** Will the Honourable Member please inquire from the Chief Commissioner, Ajmer-Merwara, why was it that he refused Mr. S. C. Mitra to visit his nephew ? Have the Government of India any suspicions against Mr. S. C. Mitra, who is a Member of this House ?

**The Honourable Mr. H. G. Haig :** The action taken, I think, must have been taken on the authority of the Government of Bengal.

**Mr. B. Das :** Will the Honourable Member kindly inquire from the Government of Bengal what suspicions they have against Mr. S. C. Mitra. M.L.A. ?

**Mr. Gaya Prasad Singh :** Because he is an *ex-detenu* himself.

**Mr. S. C. Mitra :** Is it not a fact, Sir, that these interviews are allowed under a strict Police guard ? If that be so, will Government please explain whether they have any reasons for the rejection of an interview to a near relation ?

**The Honourable Mr. H. G. Haig :** It is difficult for the Government to state on the floor of the House the reasons in particular cases either for granting or for refusing to give interviews.

**Mr. Lalchand Navalrai :** Will the Honourable Member kindly say whether there was any fear by the Government of Bengal that Mr. S. C. Mitra will give some information to this House ?

**The Honourable Mr. H. G. Haig :** No, Sir ; I am confident that that was not the reason.

**Mr. S. C. Mitra :** Is the Honourable Member aware that these interviews are allowed in the presence of Police officials and Jail authorities and therefore there is no chance of anything surreptitious happening, or even for a man under suspicion to have an interview with this near relation ?

**The Honourable Mr. H. G. Haig :** I believe, Sir, they do take those precautions under those conditions.

**Mr. B. Das :** Does the Honourable Member subscribe to the view that Mr. Mitra is a suspected man ?

**The Honourable Mr. H. G. Haig :** No, Sir. I do not wish to discuss the estimation in which any Honourable Member of this House is held.

**Dr. Ziauddin Ahmad :** Is the Honourable Member aware that the Members of the Local Council are the Honorary Visitors to the various jails—at least this is the case in the United Provinces Council ? If so, can the M.L.A.'s be considered as Honorary Visitors for Deoli and other jails ?

**The Honourable Mr. H. G. Haig :** No, Sir ; I do not think that is the case.

**Mr. D. K. Lahiri Chaudhury :** Will Government now state if there is any suspicion against the visit of Mr. Mitra to the Deoli Jail ?

Will they consider the advisability in the future to give him facilities to visit that Jail ?

**The Honourable Mr. H. G. Haig :** I am quite prepared to send a copy of these questions and answers to the Government of Bengal.

**NON-OFFICIAL VISITORS FOR THE DEOLI DETENTION CAMP.**

529. **\*Mr. S. C. Mitra :** Have any non-official visitors to Deoli camp been appointed ? If so, what are their names and since when have they been appointed ? How many visits such non-official visitors have paid to the camp ? Have they submitted any report ? If so, do Government propose to place a copy of that report on the table ? If not, why not ? If none has been appointed, will Government please state the reasons why ? Do Government propose to appoint such visitors ? If not, why not ?

**The Honourable Mr. H. G. Haig :** The Chief Commissioner has appointed a Visiting Committee by notification dated the 13th July, 1932. The non-official visitor on this Committee is Mr. D. H. Vakil. Under the rules notified by the Chief Commissioner on the 6th May, 1932, the Committee must visit Deoli Jail not less than once in every calendar month, and their reports are submitted to the Chief Commissioner.

**Mr. K. C. Neogy :** What is the position of this non-official Visitor, please ?

**The Honourable Mr. H. G. Haig :** His position is exactly the same as that of the official members of the Committee.

**Mr. K. C. Neogy :** What position does he occupy in life ?

**The Honourable Mr. H. G. Haig :** I am afraid, I must ask for notice of that question.

**Dr. Ziauddin Ahmad :** Can any Member of this House be included among the non-official Visitors ?

**The Honourable Mr. H. G. Haig :** If any Member of this House proposes to reside at Deoli, I have no doubt that his name will be considered.

**Mr. K. C. Neogy :** Does this gentleman actually reside at Deoli ?

**The Honourable Mr. H. G. Haig :** That I cannot say.

**Mr. K. C. Neogy :** Was the name of my Honourable friend Diwan Bahadur Harbilas Sarda ever considered in this connection ?

**The Honourable Mr. H. G. Haig :** That I cannot say. The Government of India were not consulted about the appointment of this Committee. It is a matter entirely within the discretion of the Chief Commissioner.

**Mr. Gaya Prasad Singh :** Is it not a fact that the gentleman who has been appointed a Visitor resides in Ajmer, like Diwan Bahadur Harbilas Sarda ?

**The Honourable Mr. H. G. Haig :** Very possibly, but I do not think that Dr. Ziauddin Ahmad comes under that category.

## DEATHS OF DETENUS IN THE DEOLI DETENTION CAMP.

530.\***Mr. S. C. Mitra** : Is it a fact that some deaths amongst the detenus detained in the Deoli Jail have taken place since they were sent to Deoli ? If so, what were the causes of such deaths ?

**The Honourable Mr. H. G. Haig** : There has been one death only which was the result of suicide.

## INQUIRY INTO THE DEATH OF MR. MRINAL KANTI ROY CHAUDHURY IN THE DEOLI DETENTION CAMP.

531.\***Mr. S. C. Mitra** : (a) Are Government aware that there is a strong rumour in Bengal that the alleged suicide of Mrinal Kanti Roy Chaudhury is not a case of suicide ? If not, do Government propose to inquire ? If not, why not ?

(b) Are Government aware that the public belief is that the death was due to torture by the underlings of the authorities in charge of the Deoli Camp ? If not, do they propose to institute an inquiry with the aid of non-official members of this House to allay the public feeling ? If not, why not ?

(c) Is it a fact that the death of Mrinal Kanti Roy Chaudhury was due to unknown causes, and that no interviews are being allowed ? If not, what are the causes for which all interviews have been stopped ?

(d) Will Government be pleased to state the reasons why the non-official inquiry asked for by a wire by Mr. K. C. Neogy, M.L.A., was not acceded to for allaying the public feeling in Bengal ?

**The Honourable Mr. H. G. Haig** : (a) and (b). The Government of India are not aware of any such rumour or belief. If any such mischievous rumour has been put abroad it is absolutely without foundation. An inquest was held and the Government of India consider that no further enquiry is necessary.

(c) The suggestion is entirely contrary to the facts. Moreover, it is not the case that all interviews have been stopped.

(d) I would refer the Honourable Member to the reply given by me to Mr. Nabakumar Sing Dudhoria's question No. 342 on the 16th September, 1932.

**Mr. S. C. Mitra** : Do not the Government realise that because the Press has been muzzled and interviews are objected to, that such ugly rumours get currency ?

**The Honourable Mr. H. G. Haig** : I do not think there is any justification for such a rumour to arise. I am informed by the Government of Bengal that there has been only one case in which an interview has been refused.

**Mr. K. C. Neogy** : Are the Government aware that the credit of Government stands so high with the public that all official communiqués in such cases are presumed to be incorrect ?

**The Honourable Mr. H. G. Haig** : No, Sir ; I am not aware of that.



STOPPAGE OF TRAFFIC ON THE KALKA-SIMLA CART ROAD.

532. \***Mr. S. C. Mitra** : (a) Are Government aware that traffic on the Simla-Kalka Cart Road is stopped for long hours when His Excellency the Viceroy or other high officials travel by motor on that road ?

(b) and (c).†

**The Honourable Mr. H. G. Haig** : I understand, Sir, that I am expected to answer only part (a) of the question, as the other parts (b) and (c) have been withdrawn, having been put down under a complete misapprehension of the facts.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : Yes, the Honourable Member need reply only to part (a) of the question.

**The Honourable Mr. H. G. Haig** : Traffic on the Simla-Kalka cart road is not suspended when officials other than His Excellency the Viceroy travel on that road. The period for which it is suspended when His Excellency travels is always fixed so as to cause the least inconvenience to the public.

**Mr. S. C. Mitra** : Are Government aware that the Honourable Mr. Ramsay Scott, M.L.A., was held up for an hour and three quarters at Kandaghat only the other day when His Excellency's motor passed ?

**The Honourable Mr. H. G. Haig** : No, Sir.

**Mr. S. C. Mitra** : Are Government also aware that the Honourable Mr. Ghuznavi and half a dozen other Members of the Assembly on the 2nd September were interned in a waiting room for two hours before they were allowed to come out ?

**The Honourable Mr. H. G. Haig** : Mr. Ghuznavi has never mentioned this incident to me. I am very sorry that he should have been put to any inconvenience.

**Mr. B. Das** : Is the Honourable Member aware that the Police informed an M.L.A., who was walking on the Kalka platform that it was the police order that everybody must wait in the waiting room and there he was locked up ?

**The Honourable Mr. H. G. Haig** : No, Sir. This is the first time I have heard of these complaints. I very much regret that Honourable Members have been put to any inconvenience, but, I hope, they will also realise that we, as a Government, have a very special responsibility for protecting the person of His Excellency the Viceroy.

**Mr. S. C. Mitra** : Will Government take it that the Members of the House are quite willing to wait for any reasonable length of time ? Are Government willing to pass orders that people should not be detained unreasonably, say, for two or three hours ?

**The Honourable Mr. H. G. Haig** : Every effort, Sir, is made, as I have already mentioned, to cause the least possible inconvenience to the public.

**Mr. K. C. Neogy** : Have Government considered as to the manner in which the treatment meted out to Mr. Ghuznavi may react on the Minorities Pact ?

**The Honourable Mr. H. G. Haig** : I still await a communication from Mr. Ghuznavi making the complaint which other Honourable Members are so ready to make on his behalf.

†These parts of the question were withdrawn by the questioner.

**Mr. K. C. Neogy :** I am very glad to hear that the Honourable Member is prepared to differentiate the case of Mr. Ghuznavi from that of other Honourable Members ?

**The Honourable Mr. H. G. Haig :** I am merely pointing out that the case of Mr. Ghuznavi has not been brought to my notice except by the Honourable Member and one or two of his friends.

**Mr. B. V. Jadhav :** May I inform the Honourable Member that on the 2nd September the motor traffic was stopped from 5 to 9 in the morning. Does he consider four hours is the least possible delay ?

**The Honourable Mr. H. G. Haig :** I have already given the reply to all these questions, I think, Sir.

#### DIFFERENT GRADES OF MINISTERIAL OFFICERS IN CERTAIN OFFICES UNDER THE POSTAL DEPARTMENT, BENGAL.

533. \***Mr. Muhammad Anwar-ul-Azim :** Will Government please state what are the various grades of clerks, and other ministerial officers, in the office of the Postmaster General, Bengal and Assam Circle, in the Calcutta General Post Office and its town sub-offices and the Dead Letter Office, Calcutta ?

**The Honourable Sir Frank Noyce :** The clerical grades in the three establishments referred to are :

Rs. 50—5—100 for lower division clerks.

Rs. 50—6—110—5—160 for ordinary time-scale clerks.

Rs. 160—10—250 for Head Clerks and officials of similar status.

Rs. 250—20—350 for Head Assistants and similar classes of officials.

Besides these, there is one Treasurer in the Calcutta General Post Office on Rs. 400—20—500 ; one Superintendent in the office of the Postmaster-General and the Manager of the Dead Letter Office, Calcutta, the two latter are on Rs. 350—20—450.

#### NUMBER OF MUSLIMS IN THE GENERAL POST OFFICE AND OTHER TOWN SUB-OFFICES IN CALCUTTA.

534. \***Mr. Muhammad Anwar-ul-Azim :** Is it a fact that at the Calcutta General Post Office and in its town sub-offices, there are more than 1,756 clerks alone, drawing a pay of Rs. 50—350 ? What is the number of Mussalmans in that number ?

**The Honourable Sir Frank Noyce :** The actual number of clerks in the Calcutta General Post Office and its town sub-offices on December 31st, 1931, the latest date for which accurate figures are in the possession of Government, was 1,702. Of these, 135 were Muslims.

#### NUMBER OF MUSLIMS IN THE GENERAL POST OFFICE TREASURY, CALCUTTA.

535. \***Mr. Muhammad Anwar-ul-Azim :** Is it a fact that in the General Post Office Treasury, Calcutta there are thirty posts carrying

salaries from Rs. 50—450 ? How many Muslims are there in that Cadre ?

**The Honourable Sir Frank Noyce :** No. There are actually thirty-two posts carrying salaries from Rs. 50—500. None of these is held by a Muslim.

**NUMBER OF MUSLIMS IN THE DEAD LETTER OFFICE, CALCUTTA.**

536. **\*Mr. Muhammad Anwar-ul-Azim :** How many clerks are there in the Dead Letter Office, Calcutta, and how many of them are Muslims ?

**The Honourable Sir Frank Noyce :** On the 31st December, 1931, which is the latest date for which accurate figures are in the possession of Government, there were 86 clerks (including clerks in the selection grade) in the Calcutta Dead Letter Office. Of these, 21 were Muslims.

**RECRUITMENT OF STAFF BY THE CIRCLE OFFICERS OF POST MASTERS GENERAL.**

537. **\*Mr. Muhammad Anwar-ul-Azim :** Will Government please state if the Circle Officer of the Post Masters General give effect to the wishes of Government in the matters of new recruits to the extent of one-third, in filling vacancies by Muslims ?

**The Honourable Sir Frank Noyce :** On the assumption that by " Circle Officer of the Post Masters General " the Honourable Member means the various local recruiting authorities in the Posts and Telegraphs Circles, Government have no reason to doubt that their orders for the redress of communal inequalities, to which the attention of those authorities has frequently been drawn, are being properly observed. The Government orders do not, however, stipulate for the reservation of all third vacancies for the Muslim community alone as the Honourable Member will see from the reply given to his own starred question No. 330 in this House on the 30th January, 1929.

**RECRUITMENT OF MUSLIMS IN THE GENERAL POST OFFICE, CALCUTTA, OFFICE OF THE POST MASTER GENERAL, BENGAL AND ASSAM, AND THE DEAD LETTER OFFICE.**

538. **\*Mr. Muhammad Anwar-ul-Azim :** (a) Will Government please state, with reference to the list of postal officials in the Calcutta General Post Office, Office of the Post Master General, Bengal and Assam (including Stock Depot), and the Dead Letter Office, Part II, corrected up to 1931 October, how many vacancies have occurred in the ranks of clerks and other subordinates from 1923, up to this date, and what vacancies have gone to Muslims ?

(b) Has the third vacancy policy been followed by the Circle Officers or not, in giving posts to Muslims ?

**The Honourable Sir Frank Noyce :** With your permission, Sir, I propose to take questions Nos. 538 and 541 together.

Government do not propose to call for the information as its collection would involve an expenditure of time and labour not commensurate with the value of the result. The Honourable Member's assumption that in recruiting for the public services Government reserve at least one-third of the vacancies for the benefit of the Muslim community alone is not correct and in this connection his attention is invited to the replies given to his own starred questions Nos. 352 and 330 in this House on the 7th March, 1928, and 30th January, 1929, respectively, which fully explain the position.

As regards parts (b) and (c) of question No. 541 the reply is in the negative.

**Mr. Gaya Prasad Singh :** With regard to part (b) of question No. 541, I should like to know if Muslim Members of the Legislative Assembly are to be consulted for appointments of their friends and relatives, why not Hindu and Sikh Members of the Legislative Assembly are to be consulted for the appointment of their friends and relatives ?

**The Honourable Sir Frank Noyce :** I think that question is not really being put to me.

**NUMBER OF MUSLIMS RECRUITED IN PERMANENT POSTS IN THE BENGAL AND ASSAM POSTAL CIRCLE.**

539. **\*Mr. Muhammad Anwar-ul-Azim :** (a) Do the Circle Officers, and Divisional Superintendents of Post Offices keep any waiting list of candidates ? If so, what is the number of Muslims in the Circle Offices, at Calcutta, Lahore, and Peshawar, in such lists and how many in each Division in Bengal and Assam ?

(b) Is it a fact that none of these Circle and Divisional Officers have ever consulted the Muslim authorities to get recruits ?

(c) What is the strength of the waiting lists in Bengal and Assam Circle, both at headquarters, and also at Divisional Offices and how many Muslims have been taken in to fill up permanent vacancies in the Bengal and Assam Circle ?

**The Honourable Sir Frank Noyce :** (a) to (c). It is the usual practice for recruiting officers of the Posts and Telegraphs Department to keep waiting lists of candidates for employment. As regards the rest of the question Government have no information nor do they propose to call for it as its collection would involve an expenditure of time and labour not commensurate with the value of the result, since Government have no reason to doubt that their orders for the redress of communal inequalities are being properly observed in the Offices and Divisions to which the Honourable Member refers.

**NUMBER OF MUSLIM CIRCLE CLERKS IN THE OFFICE OF THE POST MASTER GENERAL, BENGAL AND ASSAM.**

540. \***Mr. Muhammad Anwar-ul-Azim** : (a) Will Government please state if it is a fact that up to 31st October, 1931, there were in the Office of the Post Master General, Bengal and Assam, 160 Circle clerks on a scale of Rs. 50—450 per mensem, of which only 15 were Mussalman ? If so, why ?

(b) Will Government please state if it is a fact that on 10th March, 1923, a Resolution was accepted by Government, in the Assembly, regarding the preponderance of one class or community or province in the service of the Crown in India ? If so, has that been followed by the Department of Industries and Labour ?

**The Honourable Sir Frank Noyce** : (a) Government are not in possession of accurate figures of a date later than the 1st October, 1931. On that date there were 192 officials of the clerical class in the office in question—of these, 18 were Muslims.

Government are not in a position to state definitely why the recruitment of Muslims in this particular office has up-to-date been comparatively small. In view of the fact that strict orders are now in force for the protection of the interests of minority communities in recruitment for Government service, no useful purpose would be served by making detailed inquiries as to the method of recruitment followed prior to the introduction of such orders.

(b) The decision of Government on the Resolution in question will be found on page 4378 of the Legislative Assembly Debates on 9th July, 1923. The Department of Industries and Labour observes the orders issued by Government.

**RECRUITMENT OF MUSLIMS IN THE BENGAL AND ASSAM POSTAL CIRCLE.**

†541. \***Mr. Muhammad Anwar-ul-Azim** : (a) Will Government please state how many vacancies have been filled up since March, 1923 (*vide* list of Postal Officials in the Calcutta General Post Office, and the Office of the Post Master General), and how many have gone to Moslems in the Office of the Post Master General, Bengal and Assam Circle, Dead Letter Office, Calcutta, General Post Office, and A. T. S. Offices, at Calcutta ? Was the Government order to the effect that at least one third vacancies should go to Muslims observed in these offices ? If not, why not ?

(b) Will Government please state if they make any enquiries from the Divisional Superintendents, recognised Mussalman bodies and Mussalman M.L.As. in Bengal, if the recruiting authorities at Calcutta do not find suitable Muslim candidates for any of these vacancies ?

(c) Will Government further state whether they have ever consulted the Assistant Director for Muhammadan Education at Calcutta, or the Universities of Calcutta and Dacca for finding suitable Muslim recruits for their offices at Calcutta and within the Circle ?

†For answer to this question, see answer to question No. 534, L226LAD

### RECRUITMENT OF MUSLIMS IN THE BENGAL AND ASSAM POSTAL CIRCLE.

542. \***Mr. Muhammad Anwar-ul-Azim** : Will Government please state how many times questions, regarding the Muslim recruitment in the Bengal and Assam Postal Circle have been put in the Assembly since 1927 and what were the replies of Government in that behalf ?

**The Honourable Sir Frank Noyce** : The information asked for by the Honourable Member is as readily accessible to himself as it is to Government in the records of the proceedings of the Assembly which are to be found in the Library of the House and to which I would refer him.

### NUMBER OF MUSLIM CLERKS IN THE BENGAL AND ASSAM POSTAL CIRCLE.

543. \***Mr. Muhammad Anwar-ul-Azim** : Is it a fact that officiating vacancies are not filled in by the Post Master General ? If so, who does the recruiting then ? Will Government please state what is the total number of clerks now on a pay of Rs. 50—250—350—450, in the Bengal and Assam Circle, and how many of them are Muslims ? What has been the guiding policy of Government in the matter of these recruitments ?

**The Honourable Sir Frank Noyce** : I regret that I am unable to reply to the first two parts of the question as the Honourable Member's meaning is not clear. As regards the third part, on the 31st December last, the latest date for which Government have accurate information, there were in all 6,459 officials of the clerical class in the Bengal and Assam Circle, of whom 879 were Muslims. Regarding the last part, the Honourable Member is referred to the reply given to his own starred question No. 352 in this House on the 7th March, 1928.

### NUMBER OF MUSLIM SUPERINTENDENTS OF POST OFFICES IN THE BENGAL AND ASSAM POSTAL CIRCLE.

544. \***Mr. Muhammad Anwar-ul-Azim** : Will Government please state how many Muslims have been posted as Divisional Superintendents in the Bengal and Assam Postal Circle ? Is it a fact that within a postal division, posts up to the value of Rs. 50 are filled up by the Superintendent ?

**The Honourable Sir Frank Noyce** : One Muslim Superintendent is at present in charge of a Division. A Divisional Superintendent is empowered to fill posts on time-scales of pay on the minimum pay of the scale prevailing in the Division, which varies between Rs. 35 and Rs. 70.

### AMOUNT SPENT IN THE REPAIRS OF THE CALCUTTA GENERAL POST OFFICE.

545. \***Mr. Muhammad Anwar-ul-Azim** : Will Government please state how much has been actually spent during the last five years in repairing the Calcutta General Post Office ?

**Mr. T. Ryan** : A statement is placed on the table. As I am not quite sure how much information the Honourable Member desires, the statement includes not only the cost of repairs to the General Post Office building itself but also to other buildings in the same compound, and also of electrical installations.

*Cost of repairs (including repairs to electric installations) to the Post Office buildings at Calcutta General Post Office during the last five years.*

—	1927-28.	1928-29.	1929-30.	1930-31.	1931-32.	Remarks.
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	
General Post Office building ..	(a) Nil.	2,884-0-0	1,065-4-0	2,592-8-0	835-2-0	
Arcade Building ..	1,863-7-0	312-0-0	2,043-12-0	428-1-0	804-0-0	
Presidency Postmaster's quarters ..	202-8-0	127-4-0	455-0-0	144-1-0	112-14-0	
Deputy Presidency Postmaster's quarters	Nil.	57-8-0	231-12-0	76-8-0	95-0-0	
Assistant Presidency Postmaster's quarters	116-0-0	70-8-0	414-0-0	60-0-0	77-0-0	
	2,181-15-0	3,251-4-0	4,209-12-0	3,201-2-0	1,924-0-0	
<i>Repairs to electric installations.</i>						
General Post Office building ..	3,164-0-0	2,802-0-0	3,038-0-0	2,989-0-0	2,189-0-0	
Arcade Building ..	3,885-0-0	3,131-0-0	2,802-0-0	3,268-0-0	1,820-0-0	
Presidency Postmaster's quarters ..	38-0-0	38-0-0	36-0-0	18-0-0	14-0-0	
Deputy Presidency Postmaster's quarters ..	Nil.	11-0-0	11-0-0	11-0-0	9-0-0	
Assistant Presidency Postmaster's quarters ..	16-0-0	16-0-0	18-0-0	12-0-0	10-0-0	
	7,103-0-0	5,798-0-0	5,905-0-0	6,298-0-0	4,042-0-0	
					212-0-0	Cost of replacement of fans.
					4,254-0-0	

(a) Included in Rs. 1,863-7-0 shown against Arcade Building.

**RENT PAID FOR THE BEADON STREET POST OFFICE IN CALCUTTA.**

546. \*Mr. Muhammad Anwar-ul-Azim : (a) How much do Government pay per month as rent of Beadon Street Post Office in Calcutta, and for how many years has this payment been made ?

(b) How much Government have paid in rents for this office for the last seven years ?

**Mr. T. Ryan :** (a) The rent is Rs. 1,500 a month ; it has been paid for about 8 years and 9 months.

(b) Rs. 1,26,000.

#### LOSS DUE TO THE SHIFTING OF GOALUNDU GHAT STATION ON THE EASTERN BENGAL RAILWAY.

547.\***Mr. Muhammad Anwar-ul-Azim :** (a) Will Government please state how much they have lost during the last five years by the shifting of the Goalundu Ghat on the Eastern Bengal Railway ?

(b) Is it a fact that there is no separate landing for the higher class passengers at Chandpur (Assam Bengal Railway) and Goalundu (Eastern Bengal Railway) from the ferry steamers ? If not, why not ?

**Mr. P. R. Rau :** (a) The expenditure incurred on shifting Goalundu Ghat on the Eastern Bengal Railway during the last 5 years averaged Rs. 55,000. The figures are as follows :

			Rs.
1927-28	..		29,530
1928-29	..	..	93,504
1929-30		..	61,882
1930-31	..	..	69,091
1931-32	..	..	22,912

(b) At Chandpur (Assam Bengal Railway) there are two gangways. one for upper class passengers and the other for intermediate and third class passengers. At Goalundu (Eastern Bengal Railway) under normal conditions when no erosion is taking place two gangways are provided, one for upper class passengers and the other for lower class passengers. In the flood season when the bank is cutting and the landing arrangements have to be moved back almost daily one gangway only can be provided.

**Dr. Ziauddin Ahmad :** Is there any chance of saving this money by diverting the route from Calcutta to Dacca ?

**Mr. P. R. Rau :** I should like to have notice of the question. I am not aware of local conditions.

#### INCONVENIENCE DUE TO CHANGE OF TIMINGS OF THE CHITTAGONG MAIL.

548.\***Mr. Muhammad Anwar-ul-Azim :** (a) Is it a fact that Chittagong mail leaves Chandpur (Assam Bengal Railway) at 10-30 P.M., though the steamer reaches that station at 7 P.M. now ? If so, why ?

(b) Will Government further state whether there is any connecting train at Sealdah, to catch the Punjab mail in the evening for an East-Bengal passenger, coming from Chandpur ? Can a passenger, travelling by Chittagong mail, catch the Punjab mail in the evening, even by changing at Naihati now ? If not, why not ? Who is responsible for the change of the timings ?



**Mr. P. R. Rau :** (a) The time table of the Assam Bengal Railway in force from 1st May, 1932, shows that the steamer reaches Chandpur at 20 hours, and the train for Chittagong leaves at 22 hours, arriving at Chittagong at 5-31. The time of departure has apparently been designed in order that the train may not reach Chittagong at too early an hour.

(b) From the latest time tables of the two railways, I understand that the reply to the first part is in the negative and to the second part in the affirmative. As regards the last part of the question, changes in timings of trains are arranged by the various Railway Administrations who discuss important alterations with their respective Advisory Committees.

# NAMING OF STATIONS ON THE DOHAZARI SECTION OF THE ASSAM BENGAL RAILWAY.

549.\***Mr. Muhammad Anwar-ul-Azim :** (a) Will Government please state how many stations are there on the Dohazari section of the Assam Bengal Railway ?

(b) Is it a fact that all the stations on this line are named after the villages through which this Railway passes ? Is Janali Hat a station on that line ? Is Janali Hat the name of a village ? Is it a fact that all the villagers of that Union have asked the Railway authorities to change it to Mohora, the village through which the Railway passes, and that has been recommended by the District Magistrate of Chittagong ?

(c) Do Government propose to name the station after the village through which it passes, and will they please lay on the table all the correspondence in that connection ?

**Mr. P. R. Rau :** (a) Six stations, excluding Sholashahar Junction from which the Dohazari section takes off.

(b) The fixing of station names is settled by Railways in consultation with the local civil authorities. But I am prepared to accept the Honourable Member's statement that the stations have been named after the villages through which the railway passes.

Janali Hat is a station on the Dohazari section, and there is a village of that name.

A representation from the President, Mohora Union Board, to change the name of Janali Hat Station to Mohora was received by the Railway Board and forwarded to the Agent, Assam Bengal Railway, for disposal.

The District Magistrate, Chittagong, writing to the Traffic Manager, Assam Bengal Railway, in March, 1930, supported the suggestion that the station name should be Janali Hat. I am not aware if there has been any subsequent recommendation on this point from the District Magistrate.

(c) Government are not prepared to take any part in the fixing of station names. It is obviously a matter which can more suitably be taken up with the Agent by Members of the Railway's Advisory Committee, and I understand the Agent explained to them the reasons for the decision at a meeting held at Chittagong on the 4th August, 1932. Government do not consider that the correspondence is of such public interest as to justify its being laid on the table of the House.

# MEMORANDUM *re* POSITION OF MINORITIES IN THE RAILWAY SERVICES IN INDIA.

550. \*Mr. Muhammad Anwar-ul-Azim : (a) Will Government please state when the memorandum by the Railway Board to show the position of the minorities in the Railway services in India was issued ?

(b) Was any copy of that printed memorandum circulated to the members of this Assembly ?

(c) Is it a fact that it contained copies of instructions to various Railways in this country to follow, in the matter of new recruits ?

(d) Have the Eastern Bengal and Assam Bengal Railways followed any of those instructions ?

(e) Have these two Railway systems taken to the practice of advertising the new vacancies under them in the local papers ? If not, why not ?

Mr. P. R. Rau : (a) I presume my Honourable friend is referring to the Memorandum issued by the Railway Board on the representation of Muslims in the Railway services. This was issued in February, 1931.

(b) Yes.

(c) It described the policy of Government and the measures adopted by the Railway Board to give effect to it.

(d) Government have no reason to think that railway administrations are not following the policy of Government in this matter. As my Honourable friend doubtless recognises, orders giving effect to this policy are not binding in detail on Company-managed Administrations.

(e) I have called for this information and will lay a reply on the table in due course.

## PERSONNEL OFFICER OF THE ASSAM BENGAL RAILWAY.

551. \*Mr. Muhammad Anwar-ul-Azim : When was the Personnel Officer appointed by the Assam Bengal Railway and for what purpose ?

Mr. P. R. Rau : A temporary post of Personnel Officer was created for two years from 1st April, 1930, but it was not filled until March, 1931. The officer deals with all questions relating to staff welfare, including the staff Benefit Fund Employment Bureau and Staff Councils.

## RETRENCHMENT IN THE ASSAM BENGAL RAILWAY.

552. \*Mr. Muhammad Anwar-ul-Azim : How many (i) clerks and (ii) coolies and menials have been retrenched by the Assam Bengal Railway since 1930 ? How many of them were Muslims ? How many of the retrenched men have been taken back since and how many of these are Muslims ?

Mr. P. R. Rau : I have called for certain information and will lay a reply on the table in due course.

**MUSLIM PREVENTIVE OFFICERS IN THE CUSTOM HOUSES AT CALCUTTA AND CHITTAGONG.**

553. \***Mr. Muhammad Anwar-ul-Azim** : Will Government please state how many Preventive Officers there are at the Calcutta Customs, and at Chittagong ? How many of them are Muslims ? If the number is below 33 per cent., why is that so ? What has been the promises of the Finance Member in this behalf since 1927 ?

**The Honourable Sir Alan Parsons** : 230 at Calcutta and 17 at Chittagong out of whom 26 at Calcutta and 3 at Chittagong are Muslims. The existing orders require that two-thirds of the vacancies should be filled from the best material available, and that the remaining third should be utilised for redressing communal inequalities. It is only since 1920 that Indian officers have been recruited at all and their proportion to the total strength of the service must therefore increase slowly. With regard to the concluding portion of this question the Honourable Member's attention is invited to the Honourable Sir George Schuster's speech in this House on the 12th March, 1931.

**MUSLIM CLERKS AND PREVENTIVE OFFICERS IN THE CUSTOMS OFFICES AT CALCUTTA AND CHITTAGONG.**

554. \***Mr. Muhammad Anwar-ul-Azim** : (a) What is the total number of clerks in the offices of the Collectors of Customs at Calcutta and Chittagong ? What is the number of the Mussalmans respectively ?

(b) How many clerks and Preventive Officers have been retrenched from these two offices, and how many of them are Muslims ?

(c) Is it a fact that several Preventive Officers have been recruited by the Collector of Customs at Chittagong this year ? How many of them are Muslims ?

(d) How many Muslim graduates were asked to interview the Assistant Collector ?

**The Honourable Sir Alan Parsons** : (a) 367 at Calcutta and 27 at Chittagong of whom 48 and 6, respectively are Muslims.

(b) A statement is placed on the table.

(c) One Preventive Officer has been recruited at Chittagong ; he is a Hindu.

(d) Of the six Muslim applicants interviewed 4 were graduates.

*Statement referred to at (b).*

	Number of clerks retrenched.	Number of Muslims.	Number of Pre- ventive officers retrenched.	Number of Muslims.
Calcutta ..	41	2	27	1
Chittagong ..	3	1	2	Nil

### RAID ON THE HEAD TELEGRAPH OFFICE AT CHITTAGONG.

555. \***Mr. Muhammad Anwar-ul-Azim** : Will Government please state when the Head Telegraph Office at Chittagong was raided last ? What was the amount of loss to Government thereby ?

**Mr. T. Ryan** : The Head Telegraph Office at Chittagong was raided on the 18th April, 1930. The loss to Government was Rs. 4,057.

### MUSLIM PERSONNEL OF THE HEAD TELEGRAPH OFFICE AT CHITTAGONG.

556. \***Mr. Muhammad Anwar-ul-Azim** : What is the total personnel of the Head Telegraph Office at Chittagong, excluding the peons and menials and how many are Muslims ?

**Mr. T. Ryan** : The total personnel of the Chittagong Telegraph office excluding peons and menials is 26, including one Muslim.

### REPRESENTATION FROM THE PEOPLE OF CHITTAGONG HILL TRACTS *re* THEIR REPRESENTATION TO THE BENGAL LEGISLATIVE COUNCIL.

557. \***Mr. Muhammad Anwar-ul-Azim** : (a) Will Government please state whether they have received any representation from the people of the Chittagong Hill Tracts requesting to be joined with the district of Chittagong, in the matter of their representation to the Bengal Legislative Council ?

(b) Are the Chittagong Hill Tracts under the Superintendent of Post Offices, Chittagong Division ?

**The Honourable Mr. H. G. Haig** : (a) The reply is in the negative.

(b) The reply is in the affirmative as far as postal administration is concerned—but otherwise in the negative.

**Mr. B. Das** : As the Chittagong Hill Tracts are at present treated as backward tracts and have no representation in the Local Council or in this Legislature, and as the subject of backward tracts which was on the agenda of the Consultative Committee was not decided by them, how are the Government of India going to look after the representation of the backward tracts and how are their interests going to be safeguarded before the Government of India Act is passed ?

**The Honourable Mr. H. G. Haig** : The Government of India have been considering the question of the backward tracts and have addressed the Secretary of State on the subject. If this subject should come under review in the conference which is now to be held in London, all the better ; otherwise I am afraid the question will be left to the deliberations of the Government of India and His Majesty's Government.

**Mr. B. Das** : Will Government lay particular stress on this aspect of the question that the Simon Commission pointed out that there are nearly 207,900 square miles of backward tracts in the different provinces of India ?

**The Honourable Mr. H. G. Haig** : Government are well aware that the question is one of some importance.

**MUSLIM UNPAID PROBATIONERS IN THE CHITTAGONG HEAD POST OFFICE.**

558. \***Mr. Muhammad Anwar-ul-Azim** : Will Government please state how many unpaid probationers are there at the Chittagong Head Post Office, and how many of them are Muslims ?

**Mr. T. Ryan** : So far as Government are aware there are none, as the system of employing unpaid probationers in post offices was prohibited in 1928.

**CONSTITUENCY THROUGH WHICH BUDDHISTS IN CHITTAGONG VOTE FOR THE LEGISLATIVE ASSEMBLY AND THE LOCAL COUNCIL.**

559. \***Mr. Muhammad Anwar-ul-Azim** : Through what constituency do the Buddhists in Chittagong vote for the Assembly and the Local Council ? Is it not a fact that the Buddhists are classed as Hindus for all political purposes ?

**The Honourable Mr. H. G. Haig** : The Honourable Member is referred to the proviso to paragraph 5 of Part III of Schedule II to the Legislative Assembly Electoral Rules and to paragraph 2 of Schedule II to the Bengal Electoral Rules from which he will observe that a Buddhist in Chittagong is entitled to vote in any general non-Muhammadan constituency for which he is otherwise qualified. Copies of the Electoral Rules are in the Library of the House.

**Mr. B. Das** : Are not Buddhists, Europeans, Parsis and Hindus all classed in general constituency, and there are no Hindu constituencies under the present electoral system ?

**The Honourable Mr. H. G. Haig** : There is no constituency which is designated Hindu. Non-Muhammadan is, I think, the name.

**DUTIES OF A HEAD POST MASTER IN A FIRST CLASS HEAD POST OFFICE IN BENGAL.**

560. \***Mr. Muhammad Anwar-ul-Azim** : What are the duties of a Head Post Master in a first class Head Post Office in Bengal ?

**Mr. T. Ryan** : The duties of a first class Head Postmaster, whether in Bengal or elsewhere, are the supervision and control of the head post offices itself and of the sub and branch post offices under its jurisdiction.

**DAILY PERMISSION SOUGHT BY POSTAL CLERKS LIVING OUTSIDE THE TOWN TO GO HOME.**

561. \***Mr. Muhammad Anwar-ul-Azim** : Will Government please state whether a clerk in the post office who lives beyond the limit of the town has got to take permission from the Post Master every day to go to his home outside the town ? If so, why ?

**Mr. T. Ryan** : According to the strict interpretation of the departmental rule on the subject it would be necessary for the clerk to obtain permission, but Government have no reason whatever to believe that compliance with the rule is insisted on by Heads of Offices in such cases as that mentioned by the Honourable Member.

### INVESTIGATION IN THE MATTER OF HANDLING WORK AT THE CHITTAGONG JETTIES.

562. **\*Mr. Muhammad Anwar-ul-Azim :** (a) Will Government please state whether the Assam Bengal Railway has yet discovered if it will cost them less to have the handling work at the Chittagong jetties like the other commercial concerns such as the Burma Oil Company and British India Steam Navigation Company, at Chittagong who are having their loading and unloading work direct, without reference to a middleman ?

(b) Will Government please state whether Sir George Rainy gave any undertaking to have this matter of handling work at Chittagong jetties investigated ? If so, when ?

**Mr. P. B. Rau :** (a) The Agent, Assam Bengal Railway, reported to the Railway Board last year that he did not consider he could get the work done satisfactorily at cheaper rates than were then being paid.

(b) I would refer the Honourable Member to the reply given by Sir Alan Parsons to his question No. 80 on the 9th September, 1931.

### RECRUITMENT OF MUSLIMS IN THE OFFICE OF THE PORT COMMISSIONERS OF CHITTAGONG.

563. **\*Mr. Muhammad Anwar-ul-Azim :** Will Government please state how many new recruits have been added to the office of the Port Commissioners at Chittagong and how many of them have gone to Muslims ? Was any pledge given by Sir George Rainy in that behalf ? If so, what ?

**The Honourable Sir C. P. Ramaswami Aiyar :** Since 1928 four new recruits have been added to the clerical cadre in the offices of the Commissioners for the Port of Chittagong, of whom one is a Muslim. With regard to the second part of the Honourable Member's question, I am not aware that the Honourable Sir George Rainy gave any pledge regarding the appointment of Muslims under the Commissioners for the Port of Chittagong. In this connection I would invite the Honourable Member's attention to the reply given to his question No. 552 on the 17th September, 1928.

**Mr. Muhammad Anwar-ul-Azim :** Did not Sir George Rainy's reply connote that the Muslims ought to get at least one-third of the new vacancies ?

**The Honourable Sir C. P. Ramaswami Aiyar :** I did not quite catch the Honourable Member's question, but I may point out that what Sir George Rainy said on the last occasion and is referred to in the answer is this :

" Government are informed that while the Port Commissioners consider that increased efficiency in the work of the port should be their first aim, they have already decided that, in order to bring the proportion of Muslims in their ministerial staff up to one-third of the total cadre, preference will, other things being equal, be given to qualified Muslim candidates for vacancies, except those filled by promotion from the permanent staff, until the above limit is reached."

### AERODROME AT CHITTAGONG.

564. **\*Mr. Muhammad Anwar-ul-Azim :** Will Government please state for what purpose the aerodrome at Chittagong has been built and at

what cost ? What purpose is it serving now ? When will it be utilised for Air Service ? Do Government propose to lease that out to settlers now ?

**The Honourable Sir Frank Noyce :** (a) The landing ground at Chittagong was constructed as an emergency landing ground for aeroplanes flying on the trans-India route. The total cost of constructions was Rs. 1,84,600.

(b) The landing ground is serving the purpose for which it was constructed, that is, for the landing of aeroplanes in emergency and occasional aeroplanes which may have to visit Chittagong.

(c) Ultimate developments cannot be forecast, but if and when other air services across India are established, Chittagong may be a regular port of call.

(d) Only to the extent that may be necessary for aviation purposes.

#### AMOUNT SPENT FOR THE RAILWAY UP TO THE CHITTAGONG AERODROME.

565. **\*Mr. Muhammad Anwar-ul-Azim :** How much has it cost the Port authorities at Chittagong to have a Railway up to the Chittagong aerodrome ?

**The Honourable Sir C. P. Ramaswami Aiyar :** The railway in question is a part of the Port Revetment Siding, which was constructed for the sole purpose of carrying stone to the site of the river improvement works. The siding is about  $3\frac{1}{2}$  miles long, and cost Rs. 1,62,132 exclusive of land acquisition. The aerodrome is situated .56 mile down the siding.

#### PREPONDERANCE OF MUSLIM SUPERINTENDENTS OF POST OFFICES IN THE PUNJAB AND NORTH-WEST FRONTIER CIRCLE.

566. **\*Sardar Sant Singh :** (a) Are Government aware that in the Punjab and North-West Frontier Circle there is a working staff of nine Muslim Superintendents of Post Offices against four Hindus and that a Muslim Superintendent has recently been transferred from the United Provinces Circle to further increase the preponderance of Muslim Superintendents ?

(b) Is it a fact that both Deputy Post Masters General of that Circle are also Muslims ?

(c) Is it not the declared policy of Government to prevent the preponderance of any single community in any province or cadre ? If so, will Government state their reasons for the disregard of this policy in the present case ?

(d) Will Government please state which is the minority community for the purposes of recruitment to service of the Posts and Telegraphs Department in the Punjab and North-West Frontier Circle ?

(e) Do Government propose to consider the desirability of removing the present communal disproportion in this respect in the Punjab and North-West Frontier Circle ?

**The Honourable Sir Frank Noyce :** (a) The fact is not as stated by the Honourable Member. There were nine Muslim Superintendents and

five Hindu Superintendents in a total staff of 22, and these numbers still continue. The Muslim Superintendent recently transferred from the United Provinces has taken the place of a Muslim Superintendent who died and his transfer was not based on communal grounds.

(b) Yes.

(c) No. The orders for the adjustment of communal inequalities apply only to new recruitment to a service. Superintendents of Post Offices and Deputy Postmasters-General belong to a service common to the whole of India and Burma and are posted to the various postal circles according to the requirements of the service. Such postings are not made solely on communal considerations.

(d) Ordinarily Muhammadans, Anglo-Indians, Indian Christians and Sikhs.

(e) The attention of the Honourable Member is invited to the reply given in this House to part (b) of Bhai Parma Nand's starred question No. 461 on the 22nd February, 1932.

**ALLEGED DISCONTENTMENT AMONG QUALIFIED STENOGRAPHERS OF THE  
PUNJAB AND NORTH-WEST FRONTIER POSTAL CIRCLE.**

567. \***Sardar Sant Singh :** (a) Is it a fact that each of the four posts of stenographer camp clerks in the office of the Post Master General, Punjab and North-West Frontier Circle, are prize posts carrying additional pay of Rs. 25 per mensem in the case of those attached to Deputy Post Masters General and Rs. 50 per mensem in the case of Post Master General and Director of Telegraphs ?

(b) Is it a fact that Mr. J. R. T. Booth while Post Master General, Punjab and North-West Frontier Circle, now senior Deputy Director General, introduced the practice of limiting the tenure of these posts by any particular holder to a period of not more than three years, so as to afford an opportunity to all competent clerks with an efficiency in shorthand to draw the additional pay in turn ?

(c) Is it a fact that this practice has been abandoned by the present Post Master General, Punjab and North-West Frontier Circle, and the posts have now been made the exclusive monopoly of existing incumbents ?

(d) If the reply to part (c) above be in the affirmative, will Government please state whether they are prepared to rule that these prize posts should not be made the monopoly of the existing incumbents ?

(e) Is it a fact that one of the incumbents, viz., Camp Clerk to the Post Master General, has held these posts and drawn one or other of the additional pay for a total period of about 7½ years ?

(f) Are Government aware that there is a great deal of discontent amongst other qualified stenographers of the Punjab Circle Office on account of such specially favoured treatment and will Government please state whether and when the present incumbents will be replaced by other efficient stenographers ?

**Mr. T. Ryan :** (a) The facts are substantially as stated by the Honourable Member.



(b) to (f). Government have no information. The matter is within the competence of the Postmaster-General, Punjab and North-West Frontier, to whom a copy of the question is being sent.

AMOUNT SPENT BY ARMY HEADQUARTERS AUTHORITIES ON THE TRAIN  
RUNNING BETWEEN SIMLA AND SUMMER HILL.

568. \*Sardar Sant Singh : (a) Is it a fact that the Summer Hill Quarters were built primarily for the Territorial Forces at Army Headquarters during the War time ?

(b) Is it a fact that the area is still called the Summer Hill Camp and that there is still a Sergeant from a British regiment in charge of the Camp ?

(c) Is it a fact that consequent on what is stated in part (a) above, the Army Headquarters have run and still continue to run a train for their staff to and from this Camp ?

(d) What amount is spent monthly by the Army Headquarters authorities on this train ?

Mr. G. R. F. Tottenham : (a) No, Sir. The quarters were originally built to provide accommodation for European clerks of the Government of India offices, including Army Headquarters.

(b) It is no longer called a camp nor is there a British sergeant in charge.

There is, however, a British non-commissioned officer at Summer Hill who supervises the issue of rations to His Excellency the Viceroy's Body-guard and Band.

(c) A special train is run on working days between Summer Hill station and Simla Goods Shed in which accommodation is reserved for military and civilian clerks working at Army Headquarters and at Summer Hill.

(d) A payment of Rs. 30 a day is made on this account.

Sir Muhammad Yakub : How much is spent daily on running this train ?

Mr. G. R. F. Tottenham : Thirty rupees a day.

Sir Muhammad Yakub : Is any charge levied from the clerks who travel by this train ?

Mr. G. R. F. Tottenham : Not from those at Army Headquarters. I believe that certain members of the public also use this train and they pay for their tickets.

Sir Muhammad Yakub : Considering the financial crisis in this country, do Government propose to reduce this unnecessary expense of Rs. 30 a day in running this special train only for Military Department clerks when no other clerks in the Government of India get any conveyance without paying for it ?

Mr. G. R. F. Tottenham : Government have not yet considered that matter, nor do I imagine that the saving of this amount would relieve the financial crisis to any very great extent, but, if the Honourable Member wishes, I will inquire into the matter further.

**Dr. Ziauddin Ahmad :** Has the Honourable gentleman considered that this special train should be made available to clerks belonging to other departments ?

**Mr. G. R. F. Tottenham :** As I say, this train is, I believe, already used by others.

**Dr. Ziauddin Ahmad :** On payment or without payment ?

**Mr. G. R. F. Tottenham :** On payment for their tickets.

**Dr. Ziauddin Ahmad :** Will the Honourable gentleman consider that all the employees in the Secretariat should be put on the same footing ?

**Mr. G. R. F. Tottenham :** I do not think that is a question for me to consider.

#### SPECIAL TRAIN FOR CIVILIAN CLERKS BETWEEN SUMMER HILL AND SIMLA.

569. **\*Sardar Sant Singh :** (a) Is it a fact that the Government of India have now decided to allot the Summer Hill quarters to the civilian staff of the Secretariat ?

(b) Do Government desire that only those living in European style are to be allotted these quarters ?

(c) Are Government aware of the fact that the timings of the Army Headquarters Summer Hill local train are unsuitable to the Civil Secretariat staff ?

(d) Before allotments were made, did Government consider the advisability of running local trains for the convenience of such men ? If not, why not ?

**The Honourable Sir Frank Noyce :** (a) and (b). The position is that the quarters at Summer Hill which were previously intended for European staff, both civil and military, are now open for allotment to clerks who live in European style.

(c) Government are aware that the timings are not entirely suitable for clerks who work in the Civil Secretariat.

(d) No ; the number of clerks belonging to the Civil Secretariat who live at Summer Hill is not large and it is within the discretion of various Departments to allow such of their clerks as may reside at Summer Hill and who arrive in office by 9-45 A.M. to leave office at 4 P.M. to take advantage of the special train which is run for the Army Headquarters staff.

#### FREE MEDICAL ATTENDANCE AND DISPENSARIES FOR THE SECRETARIAT STAFF AT SUMMER HILL.

570. **\*Sardar Sant Singh :** (a) Have Government arranged for free medical attendance and dispensaries for the Secretariat staff at Summer Hill ?

(b) Is it a fact that the Medical Officer in Summer Hill Camp refused to attend the fever-stricken Indians of the Secretariat establishment on the plea that he was meant only for the Army Headquarters staff ? If so, what action have Government taken to remove this grievance of the Secretariat staff ?

**Mr. G. S. Bajpai :** (a) The staff in question is already entitled to receive free medical attendance. The question of making the services of the doctor in charge of the personnel of Army Headquarters at Summer Hill available for attendance on clerks in the civil employ of the Government of India who reside there is under consideration.

(b) Government are making enquiries.

#### SCHOOLS FOR THE CHILDREN OF THE ARMY HEADQUARTERS AND SECRETARIAT STAFF IN SUMMER HILL.

**571. \*Sardar Sant Singh :** (a) Are there any schools for the education of the children of the Army Headquarters or the Secretariat Staff in or near the Summer Hill Camp ?

(b) If not, what will be the position of the education of the children without such facilities ?

(c) Are Government aware that the parents will have to incur expenses on rickshaws and railway fares for sending their children for attending schools in Simla ?

(d) Prior to making the allotments, did Government consider all the pros and cons before they took their decision ? If not, why not ?

**Mr. G. S. Bajpai :** (a) There are Municipal Board Primary Schools for boys and girls in Boileauganj, which is not far from Summer Hill.

(b) This does not arise.

(c) Government have received no representation in the matter.

(d) Government took the decision so as to make Indian clerks, living in European style, eligible for those quarters. The question whether the balance of convenience is in favour of residing in such quarters is for each individual concerned to decide.

#### ALLOTMENT OF SUMMER HILL QUARTERS.

**572. \*Sardar Sant Singh :** (a) Is it a fact that the allotments made this year in Summer Hill have been subject to a remark that the allottees will have " no lien " on the quarters allotted ?

(b) If so, have Government taken into consideration the possibility of these men having to undergo dislocation and shifting expenses no sooner they are " settled down " ?

**The Honourable Sir Frank Noyce :** (a) and (b). The remark referred to applies only to those who have received allotments in a class of houses to which they are not ordinarily entitled by their pay but even such persons will not be disturbed during the period for which the quarters have been allotted to them.

#### COMMUNAL COMPOSITION OF THE MECHANICAL DRAWING OFFICE, CARRIAGE AND WAGON SECTION, NORTH WESTERN RAILWAY.

**573. \*Sardar Sant Singh :** Will Government be pleased to state the number of Muhammadans, Hindus and Sikhs in the Mechanical Drawing Office, Carriage and Wagon Section, Headquarters North Western Railway ?

**Mr. P. R. Rau :** For reasons that have been often explained by my predecessor on the floor of this House, Government regret that they are unable to supplement the information contained in the annual administration reports by giving details of the communal composition of individual offices.

#### CONSTRUCTION OF MAHANADY CANAL IN ORISSA.

574. **\*Mr. B. N. Misra :** Will Government be pleased to state :

- (a) the name of the company which began the construction of the Orissa Canal (Mahanady Canal) system ;
- (b) the year when construction began as also the year when it ended ;
- (c) the total amount invested by the said company ;
- (d) the reason why Government purchased the above canal system from the company ;
- (e) the total capital outlay thereon on its completion and the rate of interest on the capital outlay on the said canal system ;
- (f) whether the people desired it ; and
- (g) the reason why it was claimed as a protective work ?

**The Honourable Sir Frank Noyce :** (a), (b), (c) and (d). The Honourable Member is referred to pages 51—54 and 208 of the Triennial Review of Irrigation in India, 1918—1921, copies of which are in the Library of the House.

(e) The total capital outlay on the completion of the project was Rs. 2,60,27,000. The rate of interest during 1930-31 was 3.3252 per cent. in respect of the capital outlay to the end of the year 1916-17 and 6.11 per cent. on the subsequent outlay.

(f) I regret that no information on this point is now available.

(g) The project was not classified as a protective work. It is, however, of the greatest value from a purely protective point of view as explained on page 54 of the Review referred to in reply to the earlier parts of the question.

**Mr. B. Das :** Is the Honourable Member aware that this canal system was built in 1863 under the scheme of opening inland navigable canals and Sir Henry Cotton of Madras wanted to build navigable canals from Madras to Calcutta and that at present half of this canal is out of order because of sea water ?

**The Honourable Sir Frank Noyce :** I have read the past history of the Canal in the Triennial Review to which I have referred my Honourable friend, Mr. Misra.

**Mr. B. N. Misra :** What is the length of this canal in Orissa Division at present ?

**The Honourable Sir Frank Noyce :** I am afraid I shall have to ask for notice of that question.

**Dr. Ziauddin Ahmad :** Do Government contemplate that this concern will be a paying concern, if not now, in the future ?

**The Honourable Sir Frank Noyce :** I should think from the facts I have stated in the reply to the question that it is extremely improbable.

**CONSTRUCTION OF THE RUSHIKULYA AND THE GANJAM GOPALPUR CANAL SYSTEMS.**

575. **\*Mr. B. N. Misra :** Will Government be pleased to state :

- (a) the dates when the Rushikulya canal system and the Ganjam Gopalpur canal were constructed ;
- (b) the capital outlay on each of these two works separately ;
- (c) the rate of interest per cent. payable on the capital outlay on each of these two works ; and
- (d) the object for which the Ganjam Gopalpur canal was constructed ?

**The Honourable Sir Frank Noyce :** (a) The Rushikulya canal system was completed in 1901 and the Ganjam Gopalpur canal in 1893.

(b) The capital outlay to end of the year 1930-31 was Rs. 54,00,731 on the Rushikulya system and Rs. 1,55,493 on the Ganjam Gopalpur canal.

(c) The rate of interest during 1930-31 is 3.3252 per cent. on outlay to the end of 1916-17 and 5.44 per cent. on the subsequent outlay.

(d) The object for which the construction of the canal was undertaken was to complete the water communication between the country bordering the Chilka Lake and Gopalpur, then the port of the Ganjam District, and to provide a link in the system of inland water communication with Calcutta if in the future through communication should be established.

**Dr. Ziauddin Ahmad :** If Orissa is separated from Bihar, then on whom will this burden of the capital outlay fall ?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : How does that question arise now ?

**CONTRIBUTION BY THE GOVERNMENT OF INDIA TO CERTAIN PROVINCIAL GOVERNMENTS FOR CONSTRUCTION OF GOVERNMENT BUILDINGS.**

576. **\*Mr. B. N. Misra :** Will Government be pleased to state :

- (a) the amount of money that they have contributed to the Government of Bihar and Orissa for the construction of their buildings at the headquarters of Patna and Ranchi, including the Government houses, Secretariat buildings and such other allied buildings ; and
- (b) the amount of money that they sanctioned for the construction of such buildings in Assam after 1913 up-to-date ?

**The Honourable Sir Frank Noyce :** (a) and (b). The information is being collected and such information as is found to be available will be laid on the table of the House in due course.

**DELIMITATION OF THE ORIYA TRACTS IN MADRAS.**

577. **\*Mr. B. N. Misra :** Will Government be pleased to state :

- (a) whether they have asked the Government of Madras to take the opinion of the Local Legislative Council (where the

number of Oriya members is less than three per cent.) under Section 52A of the Government of India Act, regarding the delimitation of the Oriya tracts in Madras Province proposed by the Orissa (O'Donnel) Committee ?

- (b) If the answer is in the affirmative, the reasons therefor ; and
- (c) whether they will be pleased to lay on the table :
  - (i) the letter of the Government of Madras containing its views regarding the delimitation of the Oriya tracts in Madras Province as proposed by the Orissa Boundary Committee ;
  - (ii) the proceedings of the Madras Legislative Council of 2nd, 3rd and 4th August, 1932, relating to the same ; and
  - (iii) the percentage of Oriya members and their number in Madras Legislative Council ?

**The Honourable Sir C. P. Ramaswami Aiyar :** (a) and (b). No reference was made under section 52-A. of the Government of India Act, 1919. The Local Governments were asked to report how the recommendations of the Orissa Boundary Committee had been received and a discussion in the Legislative Council is one obvious means of ventilating such a matter.

(c) (i) The whole question is under examination and Government do not propose to lay on the table the views of the Local Government.

(ii) The proceedings of the Madras Legislative Council are received in the Library of the House and the Honourable Member may see them there.

(iii) I have no information but observe that the Honourable Member seems to be already in possession of the facts.

**Mr. B. Das :** Why is it at all necessary for the Government of India to refer to the Madras Government, when the Government of India know it for a fact that from 1903 up to this date the Government of Madras have consistently opposed transfer of any portion of the Oriya tracts from the Madras Presidency to Orissa ?

**The Honourable Sir C. P. Ramaswami Aiyar :** There are two answers to that question : In the first place, it is not the policy of Government to decline to ask the opinion of persons who may have definite opinions to offer ; and the second answer is that the Madras Legislative Council is concerned in this matter because the Madras Presidency comprises areas which are sought to be included in the future Orissa province if it should come into existence.

#### FORMATION OF A SPECIAL AGENCY DIVISION OUT OF GANJAM AND VIZAGAPATAM DISTRICT AGENCY TRACTS.

578. **\*Mr. B. N. Misra :** Will Government be pleased to state :

- (a) the date and the year when the Government of Madras submitted proposals to the Government of India for the formation of a special agency division in 1919-20 out of Ganjam and Vizagapatam District Agency Tracts ;
- (b) the estimated cost of expenditure for the administration of the special agency division and also the schemes of development proposed along with the said proposal for the creation of the special agency division ; and

- (c) whether these expenses were taken into consideration when the Madras Government claimed to be relieved of its contributions to the Government of India ?

**The Honourable Mr. H. G. Haig :** (a) 27th February, 1920.

(b) The initial non-recurring expenditure was roughly estimated at ten lakhs and the recurring expenditure was estimated to be about the same sum. The policy of the Government was the general development of these backward areas in almost the entire field of general administration.

(c) Yes.

**Mr. B. Das :** Is it not a fact that in 1920 and also in 1925 when the Madras Government repeatedly pressed on the Government of India for remission of provincial contributions, they brought out the administration of Agency tracts as an instance for immediate remission of the provincial contributions ?

**The Honourable Mr. H. G. Haig :** I am afraid that is a question of which I shall have to ask for notice.

#### STATEMENTS LAID ON THE TABLE.

**The Honourable Mr. H. G. Haig** (Home Member) : Sir, I lay on the table the information promised in reply to starred question No. 44 asked by Mr. A. Das on the 6th September, 1932.

#### PRINTING PRESSES ASKED TO FURNISH SECURITY UNDER THE ORDINANCES.

44. *Statement showing names of Presses, etc., from which security was demanded from 1st January to 31st July 1932, under the Indian Press (Emergency Powers) Act, 1931, as amended by Section 63 of the Emergency Powers Ordinance II of 1932, and Section 77 of Ordinance X of 1932.*

Name of Press, and the date when security was demanded.	Amount of security demanded.	Whether security was deposited or the press closed down failing to deposit security.	Remarks.
1	2	3	4
MADRAS.	Rs.		
1. Lakshmi Press, Madras, 22nd January 1932.	500	No .. ..	Notice demanding security was withdrawn as the keeper apologised and gave an undertaking in writing.
2. Current Thought Press, Madras, 22nd January 1932.	500	No. The Press closed down.	

Name of Press, and the date when security was demanded.	Amount of security demanded.	Whether security was deposited or the press closed down failing to deposit security.	Remarks.
1	2	3	4
<b>MADRAS—contd.</b>	<b>Rs.</b>		
3. Nehru Printing Press, Madras, 22nd January 1932.	1,000	Deposited .. ..	The security was demanded by the Chief Presidency Magistrate, Madras, under Section 3 (1) of the Indian Press (Emergency Powers) Act, 1931. Security was refunded on application under section 3 (2) of the Act.
4. Satyagrahi Press, Ellore, 27th January 1932.	500	No .. ..	The Press was taken possession of under the Unlawful Association Ordinance, IV of 1932 and it was decided to forfeit the Press to His Majesty.
5. Sri Vidyaranya Press, Bellary, 4th February 1932.	500	No. The Press closed down.	
6. Labour Press, Madras, 17th February 1932.	500	No .. ..	Notices withdrawn as the keeper apologised and gave an undertaking in writing.
7. Raju Press, Saidapet, 29th February 1932.	500	The Press remained closed until 13th August 1932 on which date the security amount was deposited.	The keeper deposited the security on the 13th August 1932 until which date the press remained closed.
8. Sutandira Sangu Press, Madras, 14th March 1932.	500	No. The Press was not opened.	Demanded by the Chief Presidency Magistrate, Madras, under section 3 (1) of the Act.
9. Raja Press, Madura, 6th May 1932.	1,000	Yes. Deposited .. ..	The security was demanded by the District Magistrate of Madura under Section 3 (1) of the Act.
<b>BOMBAY.</b>			
1. Hubli Printing Works (Dharwar), 12th January 1932.	500	No. Press closed down	Security was required by the D. M., Dharwar.
2. Free Press Bulletin Press (Bombay), 19th February 1932.	3,000	Deposited .. ..	Security had been demanded by Government on the 8th February 1932 but was not deposited, and security was therefore demanded by the Chief Presidency Magistrate from the new keeper of the same press on his making a declaration, and was due for refund three months later.



Name of Press, and the date when security was demanded.	Amount of security demanded.	Whether security was deposited or the press closed down failing to deposit security.	Remarks.
1	2	3	4
<b>BOMBAY—<i>contd.</i></b>	<b>Rs.</b>		
3. Bharat Printing Press (Hubli—Dharwar District), 11th February 1932.	500	No. Press closed down	Notice was subsequently withdrawn by Government on the keeper tendering an apology.
4. Navjivan Mudranalaya (Ahmedabad), 11th February 1932.	2,500	No. Press closed down before the security was required.	
5. Karnatak Printing Press (Bombay), 12th February 1932.	3,000	Deposited.	
6. Maratha Printing Press (Bombay), 20th February 1932.	1,000	Not deposited ..	As the press continued to be used without depositing the security it was forfeited under section 12(2) of the Press Act. An application to set aside the notice of forfeiture was recently rejected by the High Court.
7. Kesari Press (Poona), 18th February 1932.	1,000	Deposited.	
8. Kaliyuga Printing Press (Bombay), 24th February 1932.	2,000	No. Press closed down.	
9. Raja Printing Works (Karachi), 28th February 1932.	1,500	No. Press closed down.	
10. Maratha Printing Press (Bombay), 3rd March 1932.	3,000	No ..	{ Vide remarks against serial No. 6. These were demands for security by the Chief Presidency Magistrate from other persons making declarations in an attempt to evade the provisions of the Press Act.
11. Maratha Printing Press (Bombay), 12th March 1932.	3,000	No ..	
12. Hubli Printing Works (Hubli), 8th March 1932.	250	Deposited.	
13. Bhuvaneshwari Printing Press (Belgaum), 4th March 1932.	500	No. Press closed down.	
14. Indian Daily Mail Press (Bombay), 11th March 1932.	3,000	No. Press closed down	An application to set aside the notice was rejected by the High Court.
15. Hari Har Printing Press (Bombay), 17th March 1932.	2,000	No. Press closed down	Notice was subsequently withdrawn by Government, on the keeper tendering an apology.

Name of Press, and the date when security was demanded.	Amount of security demanded.	Whether security was deposited or the press closed down failing to deposit security.	Remarks.
1	2	3	4
BOMBAY— <i>conold.</i> 16. Chitrasahala Press (Poona), 19th March 1932.	Rs. 2,000	Deposited.	
17. Kanakadittya Printing Press (Dharwar), 14th March 1932.	101	Deposited .. ..	Security was required by the District Magistrate, Dharwar.
18. Indian Daily Mail Printing Press (Bom. bay), 29th March 1932.	3,000	No .. ..	Vide serial No. 14. This was demanded by the Chief Presidency Magistrate on another person making a declaration as keeper while the security required by Government had not been deposited.
19. Bhuvaneshwari Printing Press (Belgaum), 15th April 1932.	500	Deposited .. ..	Vide serial No. 13. Another person made a declaration as keeper and deposited the security required by the District Magistrate.
20. Nava Yuga Printing Press (Hyderabad), 30th April 1932.	500	No. Press closed down	Security was required by the District Magistrate.
21. Saurashtra Mitra Press (Ranpur, Ahmedabad District), 30th April 1932.	500	No. Press closed down	Notice was subsequently withdrawn by Government on the keeper tendering an apology.
22. Shakti Job Printing Press (Hyderabad), 3rd May 1932.	500	No. Press closed down	Security was required by the District Magistrate, Hyderabad.
23. Bombay Chronicle Printing Press (Bombay), 21st May 1932.	3,000	Deposited.	
24. Madoor Mudranalaya (Ahmedabad), 30th May 1932.	2,000	No. Press closed down.	
25. Free Press Bulletin Press (Bombay), 14th June 1932.	3,000	Deposited .. ..	(Vide also serial No. 2.) This security deposited in June was forfeited by Government and a fresh security of Rs. 5,000 was deposited under section 5 (1) of the Press Act.
26. Mahomedli Fine Art Litho-Printing and Book Binding Works (Bombay), 29th June 1932.	2,000	No. Press closed down	Notice was subsequently withdrawn by Government on the keeper tendering an apology.

Name of Press, and the date when security was demanded.	Amount of security demanded.	Whether security was deposited or the press closed down failing to deposit security.	Remarks.
1	2	3	4
BENGAL.	Rs.		
1. Hari Press, 16th January 1932.	1,000	No. Press closed down.	
2. The Indian Daily News Press, 15th January 1932.	3,000	Deposited.	
3. Swatantra Press, 6th January 1932.	1,500	No. Press closed down.	
4. The Excelsior Art Press, 19th January 1932.	1,000	Exempted and order withdrawn.	
5. The Sakti Press, 19th January 1932.	1,000	Deposited ..	On representation it was reduced to Rs. 500.
6. The Basanti Press, Calcutta, 26th January 1932.	1,000	Closed down.	
7. The Bengal Art Syndicate Press, Calcutta, 2nd February 1932.	1,000	Deposited ..	On representation security was reduced to Rs. 500.
8. The Saogat Ltd. Press, Calcutta, 26th January 1932.	1,000	Exempted .. ..	On representation exempted from deposit of security.
9. The Video Press, Calcutta, 3rd February 1932.	1,000	Deposited .. ..	On representation security reduced to Rs. 500.
10. The Sree Krishna Printing Works, Calcutta, 6th February 1932.	1,000	Ditto.	
11. The Lokmanya Press, Calcutta, 6th February 1932.	2,000	Ditto .. ..	On representation security reduced to Rs. 1,000.
12. The Vihari Press, Calcutta, 17th February 1932	500	Ditto.	
13. The Calcutta Printing Works, Calcutta, 3rd March 1932.	500	Ditto.	
14. Arjya Printing Works Press, 23rd April 1932.	2,000	No. Closed down.	
15. Jiwan Press, 5th May 1932.	1,000	Ditto.	
16. Bijoya Press, 9th May 1932.	500	Ditto.	
17. The Ananda Press, 26th May 1932.	1,000	Deposited.	

Name of Press, and the date when security was demanded.	Amount of security demanded.	Whether security was deposited or the press closed down failing to deposit security.	Remarks.
1	2	3	4
BENGAL— <i>contd.</i>	Ra.		
18. Vaidik Press, 30th May 1932.	500	No. Closed down.	
19. Amrita Bazar Patrika Press, 22nd June 1932.	3,000	Deposited.	
20. The Basumati Electric Machine Press, 29th June 1932.	500	Ditto.	
21. The Shivaji Press, 8th July 1932.	1,000	....	No report yet.
UNITED PROVINCES.			
1. Adarsh Press, Agra ..	1,000	No. Press closed down.	
2. The Coronation Press, Cawnpore.	3,000	Ditto.	
3. The Vidya Bhandar Press, Lucknow.	1,500	No. Press closed down.	
4. Janardhan Press, Cawnpore.	500	Press not opened.	
5. Maha Lachmi Press, Cawnpore.	200	Ditto.	
6. Sewak Press, Allahabad	500	Ditto.	
7. Onkar Press, Cawnpore	250	Deposited.	
8. Shanker Press, Cawnpore.	1,500	No. Press closed down.	
9. The Fine Art Printing Cottage Press, Allahabad.	1,000	No. Security was demanded because the press proposed to print a newspaper, which, it was suspected, would contain matter described in section 63 of Ordinance II of 1932. As a result of the demand of security the press did not print the newspaper.	

Name of Press, and the date when security was demanded.	Amount of security demanded.	Whether security was deposited or the press closed down failing to deposit security.	Remarks.
1	2	3	4
<b>UNITED PROVINCE— contd.</b>			
10. Mahalaxmi Press, Cawnpore.	200	Deposited.	
11. Chandra Fancy Press, Cawnpore.	500	Ditto.	
12. Jagdish Press, Kashi-pur district, Naini Tal.	500	No. Press closed down.	
<b>PUNJAB.</b>			
1. Virjanand Press, Lahore	2,000	Deposited, but it has since been refunded under section 3 (2) of the Indian Press (Emergency Powers) Act, 1931.	Action taken under Act XXIII of 1931.
2. Khalsa National Press, Jullundur.	3,000	No. Press closed down	Ditto.
3. Mercantile Press, Lahore	3,000	Deposited, but the amount was first reduced to Rs. 500 which was later on refunded as matter of mercy.	Action taken under section 63 of the Emergency Powers Ordinance.
4. Maqbul-i-Am Press, Lahore.	1,500	Deposited ..	Ditto.
5. Shri Ganga Electric Press, Amritsar.	3,000	No. Press closed down	Ditto.
6. Onkar Press, Amritsar	3,000	Ditto ..	Ditto.
7. Iqbal Steam Press, Lahore.	2,000	Ditto ..	Ditto.
8. Deah Press, Lahore ..	3,000	Ditto ..	Ditto.
9. Nizami Electric Press, Lahore.	3,000	Ditto ..	Ditto.
10. Khalsa Pardesi Malwa Press, Amritsar.	2,500	Ditto ..	Ditto.
11. Muslim Printing Press, Lahore.	2,500	The orders were cancelled on representation.	Action taken under section 63 of E. P. O., 1932.
12. Public Printing Press, Sialkot.	2,000	No. Press closed down	Ditto.

Name of Press, and the date when security was demanded.	Amount of security demanded.	Whether security was deposited or the press closed down failing to deposit security.	Remarks.
1	2	3	4
<b>PUNJAB—contd.</b>			
	Rs.		
13. Mahtab Barqi Press, Amritsar.	2,500	No. Press closed down	Action taken under section 63 of E. P. O., 1932.
14. Parkash Steam Press, Lahore.	3,000	Ditto ..	Ditto.
15. Punjab Printing Press, Montgomery.	1,500	Deposited. The press has changed its name to Public Printing Press.	Action taken under Act XXIII of 1931.
16. Kirti Press, Amritsar..	3,000	No. Press closed down	Action taken under section 63 of E. P. O., 1932.
17. Harnam Press, Amritsar.	2,000	Ditto ..	Ditto.
18. Education Printing Works, Lahore.	500	Deposited ..	Ditto.
<b>BIHAR AND ORISSA.</b>			
1. Searchlight Press ..	1,500	No. Press closed down.	
2. Desh Sewak Press, Arrah.	1,000	No. Press closed down.	
3. Satyabadi Press, Cuttack.	1,000	Deposited.	
4. Prajatantra Press, Balasore.	2,000	No. Press closed down.	
5. Bhagwan Press of Sitamarhi, Muzaffarpur.	200	Deposited.	
<b>CENTRAL PROVINCES.</b>			
1. Lokmat Publishing Co., Raja Gokuldas Printing Works, Ltd., Jabal-pore.	2,000		Notice withdrawn.
2. Rajasthan Printing and Litho. Works, Ltd.	2,000	Deposited ..	This has been refunded as the press undertook not to publish objectionable matter in future.
3. Yeotmal Press, Yeotmal	2,000	....	Order demanding security withdrawn.
4. The Arun Press ..	2,000	....	Ditto.

Name of Press, and the date when security was demanded.	Amount of security demanded.	Whether security was deposited or the press closed down failing to deposit security.	Remarks.
1	2	3	4
<b>CENTRAL PROVINCES—contd.</b>	Rs.		
5. Shree Guru Babaji Printing Press.	1,000	....	Keeper of the press being unable to furnish security closed it. Machinery taken over in time by another press which undertook not to publish any literature for the Congress. No further action taken.
<b>NORTH WEST FRONTIER PROVINCE.</b>			
1. Lakshmi Art Steam Press.	1,000	No. Press closed down.	
2. George Steam Press ..	1,000	Ditto.	
<b>DELHI.</b>			
1. Hindustan Times Press, 27th April 1932.	Rs. 2,500 each from the publisher of the newspaper and the keeper of the press.	Deposited.	
2. Hindu Sansar Press (proposed), 19th April 1932.	500	Not deposited ..	Orders passed by Magistrate on request to make declaration.

**Mr. P. R. Rau** (Financial Commissioner, Railways) : Sir, I lay on the table the information promised in reply to unstarred question No. 28 asked by Mr. Bhuput Sing on the 5th September 1932.

**GRANT OF LEAVE IN TRANSPORTATION AND COMMERCIAL BRANCHES OF THE JUBBULPORE DIVISION, GREAT INDIAN PENINSULA RAILWAY.**

28. (a) The procedure followed in granting leave to the employees of the Commercial Branch of the Jubbulpore Division, Great Indian Peninsula Railway, is the same as in the Transportation branch of that division, when, however, the employees apply for leave long before they require it; they are granted leave in term as relieving staff become available.

(b) Leave for three days and under is granted by station masters at important stations, in anticipation of sanction from the Divisional Traffic Manager.

(c) Does not arise.

**The Honourable Sir C. P. Ramaswami Aiyar** (Leader of the House) : Mr. President, I desire to request you to arrange for a sitting of this House on Friday. My reasons are these. As Honourable Members are aware, there is a considerable volume of Government business to be done, and the Bill sponsored by my Honourable friend, the Home Member, is expected to last some days in discussion. The exact time is not known now, but estimates have varied from two to four days ; but whatever may be the correct estimate...

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Why not six ?

**The Honourable Sir C. P. Ramaswami Aiyar** : Or six or eight. Whatever it be, it is evident that practically the whole of the next week will be devoted to the consideration of that business. It will be observed that there are certain other items of Government business,—Mr. Metcalfe's Bill, further consideration of the Honourable Sir Frank Noyce's Bill regarding Workmen's Compensation, and the consideration of the Bill to amend the law relating to emigrant labourers in the tea districts of Assam, the Income-tax Bill and one or two Resolutions. These are matters which have to be disposed of before the session concludes. The alternative will be that after the 29th or 2nd or 3rd when Mr. Haig's Bill is through, if the longer estimates are accepted, there will be another day necessary, and it is in order to make perfectly clear that Government do not want to extend the time longer than is absolutely necessary and to take advantage of one intervening day that I am asking your permission with the assent of the House to arrange for a sitting on Friday.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : Honourable Member are aware that it is in the discretion of the Chair to direct whether there will be a meeting on Friday or not.

**An Honourable Member** : Why not on Sunday ?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : Order, order. The Chair has tried to exercise its discretion in co-operation with Honourable Members. The alternatives are either to meet on Friday and dispose of outstanding business, or to alter the order paper today so that the Ordinance legislation may come up on Monday. Honourable Members are aware that a large number of Members coming from Bengal have pressed the view not to allow any extension of the Session. They desire to conclude the Session on the 28th, or, at the latest, on the 29th...

**Mr. S. C. Mitra** : Our special point was not to sit on the 29th. If necessary, we can sit on the 28th or 30th, but not on the 29th.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : The Chair was informed that the Pooja Holidays fall in early October... October...

**Mr. S. C. Mitra** : Yes, that is on the 6th.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : And that the Honourable Members desire not to sit later than the 28th, if possible.



That being so, the alternatives for consideration are, either to sit on Friday and try to finish the business before the House by the 28th, or not to sit on Friday, and take the risk of an extension of the Session.

**Some Honourable Members :** No, no.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : These are the two alternatives...

**Mr. M. Maswood Ahmad** (Patna and Chota Nagpur *cum* Orissa : Muhammadan) : My proposal is that as an alternative we should sit on Sunday instead of Friday. (Applause.)

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : The Chair thought that the occasion was much too serious for a suggestion of that kind to be made. I should like to know what the view of Honourable Members is as regards the two alternatives which the Chair has put before them. The first alternative is to sit on Friday and try to finish the Session by the 28th (*Some Honourable Members* : " Yes " ), and the other is to risk an extension of the Session. (*Some Honourable Members* : " No. " ) I take it that the general sense of the House is that the Assembly should sit on Friday.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions : Non-Muhammadan) : I would suggest your taking up this question after Lunch.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : The Chair cannot do it. Honourable Members are aware that according to the rules which have been laid down for admission to the Visitors' Gallery a decision must be taken now in order to enable passes to the Visitors' Gallery to be issued in the course of the day. Honourable Members must indicate their preference now. I take it that the general feeling in the House is that we should sit on Friday.

**Maulvi Muhammad Shafee Daoodi** (Tirhut Division : Muhammadan) : If you will permit me, I would say one word. It is very inconvenient for some of the Muslim Members to sit on Friday.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : The Chair has considered it, and Honourable Members will have noticed that last Friday the Chair adjourned the House at about twenty minutes past twelve. That ought to satisfy them.

**Maulvi Muhammad Shafee Daoodi** : Even that was inconvenient.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : Public business has got to be done, while considerations of religious observances on the part of all communities will be given due weight. The Chair has ascertained the general feeling in the House and proposes to direct that the House do sit on Friday next.

## ELECTION OF A MEMBER TO THE STANDING COMMITTEE ON ROADS.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : Honourable Members will now proceed to elect a Member to the Standing Committee on Roads. There are three candidates...

**Mr. Muhammad Muazzam Sahib Bahadur** (North Madras : Muhammadan) : I beg to withdraw my name.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : One of the candidates has intimated that he withdraws his name. There are, therefore, two candidates whose names are printed on the ballot papers which will now be supplied to Honourable Members in the order in which I call them.

(The ballot was then taken.)

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## THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : Legislative Business. Further consideration of the Bill further to amend the Code of Criminal Procedure, 1898, for a certain purpose, as reported by the Select Committee.

**Mr. Jog**, Amendment No. 12.

**\*Mr. S. G. Jog** (Berar Representative) : Sir, I move :

“ That in part (c) of clause 2 of the Bill, in the proposed sub-section (8), after the words ‘ to be fixed by the Court ’ the words ‘ not less than fifteen days ’ be inserted.”

It is a very small amendment and quite a reasonable amendment and, at the same time, an important amendment too. Instead of leaving the matter entirely to the discretion of the magistrate, what, I submit, should be done, is that, a minimum period may be fixed, which period, according to my idea, should not be less than 15 days. When the matter came up for discussion, the other day, it was also referred to that, when you go to the High Court, the High Court ask the party interested whether he has taken the preliminary step of approaching the District Magistrate and, if that has not been done, the High Court straightaway rejects the application. What we have to count upon is that this intermediate stage has to be observed before going to the High Court. So, taking into consideration these two stages, I submit that the period fixed of 15 days is quite reasonable and a provision should be made in the Bill, without leaving the matter to the discretion of the magistrate. When an application is made, there are some sensitive magistrates who think it is an offence or insult to them. I do not mean to say that all magistrates are of this class. There are many magistrates who take it very lightly and think that every facility should be given to the accused to move the higher Courts, so that he should have a fair trial. There should not be the least suspicion in the mind of the accused that he would not have a fair trial. I admit, there are a number of magistrates of this class, but there are also magistrates who, by the mere fact of an application having been made, treat that application as a sort of insult or offence or suspicion against their judicial temperament. Under

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\* Speech not revised by the Honourable Member.

these circumstances, I submit that the discretion of the magistrate should be limited by fixing this minimum period which should not be less than 15 days. With these observations, I move my amendment.

**Mr. Lalchand Navalrai** (Sind : Non-Muhammadan Rural) : A similar amendment stands in my name and I have much pleasure in supporting my friend's amendment. I must make it clear to the House what this amendment aims at. It has been known to the House now that an application for transfer of a case from one court to another can be made, i.e., if a party is dissatisfied with that Court on reasonable grounds, an application can be made to the Court which is trying the case for getting an adjournment for the purpose of applying to the High Court for a transfer.

Sir, under the present law, the magistrate or the court to which such an application is made has no option but to accept that application and give time. Now, this Bill aims at curtailing the number of applications for adjournment, making only one postponement compulsory. But, as I have said already in my previous speeches on this Bill, the one compulsory adjournment that is being given is attended with such conditions as take away in effect this privilege. A provision has been put in this amendment that the magistrate will bind down the party concerned to a bond that he shall apply within the time to be fixed by the court, and if he does not make the application, he shall have to pay a penalty of Rs. 200. It is proposed by this amendment that the discretion of the magistrate should be curtailed to some extent, and, with that view, it is suggested not that the maximum limit of time for adjournments should be in any way restricted but that, in order to avoid abuse of this provision, the magistrate or the Court should be compelled to give some minimum time to the party to apply. Sir, you will see the reasonableness of this amendment. But, I must say, that from the attitude that I see has been taken by the Treasury Benches, one cannot but feel that I am perhaps hoping against hope in expecting them to agree. (Laughter.) I know that once they have made up their mind, it becomes very difficult for them to change it, because for them the question of prestige comes in. (Hear, hear.) Sir, on my part I have come to the conclusion that this Bill, if passed, will do great harm to the people in general, to every one from the highest to the lowest. If the accused is not afforded reasonably good time in order to take steps to get his case adjourned, I submit, this Bill will be injurious to the party concerned. What we are submitting in this amendment is that while it is proposed to leave to the discretion of the Government to give time as much as it thinks necessary, we want that that discretion should be curtailed to this extent only that a minimum period of fifteen days must be allowed by it. Sir, the Honourable the Home Member very kindly told us the other day that he was not in favour of restriction being put upon the magistrate or the Court in the matter of giving this time. I think his idea was that sufficient time would always be given by the court. Sir, I must say that although he may think that the magistrates are generous and liberal, I know there are also magistrates who are quite the reverse, and this provision is being proposed for the purpose only of controlling such Courts and such magistrates and preventing them from whittling down what the Legislature contemplates. I am asking for a minimum period to be fixed. Let the magistrate or the Courts be generous ; I shall be very happy to see them grant time liberally to the accused or to the complainant

[Mr. Lalchand Navalrai.]

who apply for time to get the case adjourned. What we want is that the magistrate or the Court should keep temper and coolly consider applications made for time to apply for withdrawal of the case from their Courts. Now every one bewares to apply for transfer for it may be on personal grounds, and he must presuppose that, if his case is not transferred to the Court of some other magistrate, he comes back to the same magistrate and then he will be in a very sad predicament. My amendment, which I have proposed, is a very modest one ; and, Sir, let me see once in a way the Treasury Benches coming round to yield. The other ground, I would put forward in support of this amendment, is this. It has been made clear to the House that it is not one application that shall have to be made for transfer before one goes to the High Court. He must perforce come up first under section 528 to the District Magistrate and get an order from him. If he is unsuccessful, then only he has to go to the High Court. In such a case if time given expires, and the applicant comes back before the magistrate for extension of time, the magistrate might say, " My hands are bound. I shall give you only one adjournment ". So all these things have to be considered, and I submit that this amendment is not only in favour of the accused or complainant, but conduces to the ends of justice, and, with that intention, I support this amendment.

**Mr. T. N. Ramakrishna Reddi** (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, I have also great pleasure in supporting this amendment ; which, I submit, is absolutely necessary, in view of the fact that an application can in the first instance be made to the District Magistrate and then to the High Court. Some days must necessarily elapse before the District Magistrate can issue summons to the other party, and for the representation of the other party,—and then some time elapses before final orders are issued. Then alone is the party concerned to go to the High Court. So there must be sufficient time given for the accused to file applications which would enable him to go in the first instance to the magistrate and also, if necessary, to the High Court. Sir, the other day the Honourable the Law Member said that if the party goes to the District Magistrate and spends some time in his Court and then goes to the High Court beyond the limit fixed by the magistrate and in consequence the bond is forfeited, then that will be a good ground for moving the High Court to get his case transferred from the Court of that magistrate to another Court. So he said that there is no necessity for fixing the minimum time. But, Sir, in this case the party is bound to execute a bond that he must file the petition for transfer application and, according to the strict letter of the bond, the magistrate has no other course except to forfeit the bond and ask the party to pay the amount. In the first instance, what will be its effect on the party whether the case is transferred afterwards or not, or whether the magistrate finds there was reasonable ground for the default of the party concerned or not ; according to the strict letter of the bond, if the party has not made an application to the High Court within the time fixed, he has to forfeit the bond. Then the amount has been fixed at a very high figure. I pleaded in vain for reducing that amount. So the party has to pay the money in the first instance, or else he has to suffer such imprisonment as the Court might award if he does not fulfil the terms of the bond in the first instance. So it is quite essential that a minimum period of fifteen days is necessary. If the party goes to

the High Court after the time given by the magistrate and the magistrate forfeits the bond because he has not filed the petition within the number of days fixed, the High Court may take the view that the party was not diligent in filing the application before the magistrate himself in proper time. Supposing an adjournment has been given for applying to the High Court, the party has to go to consult some lawyer or to find some money to enable him to move the application before the Magistrate. He might spend one or two days there. When he goes to the High Court after filing his application before the Magistrate, the High Court may take the view that he did not file his application immediately. The High Court might say : " You have wasted two or three days and, therefore, we do not see any reason why the magistrate should not forfeit the bond. You have not proceeded in the case diligently ". So, Sir, these are the risks which the parties are put to. Hence, instead of leaving the absolute discretion to the magistrate, it will have a salutary effect if 15 days were fixed, which would enable the party to go both to the Magistrate as well to the High Court. For these reasons, Sir, I support the amendment.

**The Honourable Mr. H. G. Haig** (Home Member) : Sir, my Honourable friend, Mr. Lalchand Navalrai, expressed the hope that we might be convinced by his arguments, but, at the same time, an apprehension that we might be deterred from giving effect to our real convictions owing to considerations of prestige. I need hardly assure the House that in this matter prestige does not enter at all.

**Mr. Lalchand Navalrai** : We have always had that assurance.

**The Honourable Mr. H. G. Haig** : We discussed this question in the Select Committee and we discussed it on its merits and we were convinced by argument and not by any other consideration that it was desirable that the discretion in this matter should be left to the magistrates. The amendment which is proposed would lay down a minimum period of 15 days for an application. Well, Sir, the House, I am sure, will agree that in a case like this, unnecessary delay is of no advantage. If the case were being heard in a Presidency town, there could be no reason for an application to the High Court to take 15 days and it would be most undesirable to impose a perfectly superfluous delay in proceeding with the case.

**Mr. Lalchand Navalrai** : What about the Mufassil ?

**The Honourable Mr. H. G. Haig** : In the Mufassil, Sir, if more than a week is required for moving the High Court, the magistrate would naturally lay down a reasonable period. The assumption of the Honourable Member is that the magistrate can never be trusted to take a reasonable view. But, Sir, it must be remembered that if a magistrate, in fact, lays down an unreasonable period within which the application should be made to the High Court, the High Court would at once take notice of that action as indicating some prejudice on the part of the magistrate and the accused would, in fact, gain some advantage by this unreasonable action of the magistrate. Sir, I consider that it is most desirable in this matter that the discretion should be left, as the Bill now leaves it, to be magistrate.

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

“ That in part (c) of clause 2 of the Bill, in the proposed sub-section (8), after the words ‘ to be fixed by the Court ’ the words ‘ not less than fifteen days ’ be inserted.”

The motion was negatived.

**\*Mr. S. G. Jog** : Sir, I draw the attention of the House to my amendment which runs thus :

“ That in part (c) of clause 2 of the Bill, in the proviso to the proposed sub-section (8), for the word ‘ require ’ the word ‘ compel ’ be substituted.”

I would read the whole proviso, so that the House will be able to appreciate what I mean :

“ Provided that nothing herein contained shall require the Court to adjourn the case upon a second or subsequent intimation from the same party, or, where an adjournment under this sub-section has already been obtained by one of several accused, upon a subsequent intimation by any other accused.”

The word “ require ”, according to my interpretation, leaves no discretion to the magistrate upon a second application to stop further proceedings or to stop taking any evidence in the case of the second application. I could see the point that after one compulsory adjournment is given, the magistrate is not bound not to record evidence or to stop the proceedings. The word “ require ” means that he shall be compelled to go on with the proceedings even though there may be strong grounds for the second application. In many cases, on the second application also, there may be very very strong grounds for the transfer and, if the magistrate is satisfied that the grounds are really strong and are in favour of a transfer, the word, as used, leaves him no alternative but to proceed with the case. If my amendment is accepted, it will only mean that nothing shall compel the Court. In other words, even on the second application, it will be entirely in the discretion of the Court either to go on with the case or to stop the proceedings at this stage if he finds that the going on with the case is in no way beneficial either to the prosecution or to the accused. In that case, there should be left a sufficient discretion with the magistrate either to go on with the case or to stop further proceedings. That is the import of the amendment which I have proposed. If the word “ require ” as used in the proviso leaves sufficient discretion and if the Honourable Member explains the position, or if I am satisfied that my interpretation is wrong, I will be glad to withdraw my amendment.

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

“ That in part (c) of clause 2 of the Bill, in the proviso to the proposed sub-section (8), for the word ‘ require ’ the word ‘ compel ’ be substituted.”

**Mr. Muhammad Muazzam Sahib Bahadur** (North Madras : Muhammadan) : Sir, I cannot really see how the substitution of the word “ compel ” for “ require ” will make any difference. If I have understood my friend aright, what he means to say is that the word “ require ” implies a fetter on the discretion of the magistrate, but not so the word “ compel ”. I am opposed to the amendment proposed and I do not think any useful purpose will be served by the substitution.

**The Honourable Sir Brojendra Mitter** (Law Member) : Sir, I oppose this amendment which is purely a drafting amendment. My Honourable friend, Mr. Jog, said that if I could satisfy him that the word 'require' is an apt expression here, he would be prepared to withdraw his amendment. Sir, the word 'require' appears in the proviso. A proviso has always reference to the main provision. It is a proviso to the main provision. The main provision deals with a mandatory injunction, that is when certain things happen, then there is a mandate upon the magistrate to adjourn the case. Now, in the proviso it is said that the mandate will have no application in certain cases. The word 'require' carries with it the force of the mandatory injunction and it means that nothing herein contained shall operate as a mandatory injunction upon a subsequent intimation. The word 'require' conveys the same meaning as the word 'compel'. From a drafting point of view, it is a better expression. I do not see where the risk is. The magistrate's discretion is left untouched.

**Mr. S. G. Jog** : Where a second application is made has the magistrate got any discretion or not ?

**The Honourable Sir Brojendra Mitter** : I am coming to that. If there be no mandatory injunction on the magistrate to adjourn, then his discretion under section 344 is left unaffected. Therefore when a second application is made, what this proviso says is this : you are not compelled to adjourn, but nevertheless you have got to look into the merits of the application and if you are satisfied that an adjournment is necessary, in the ends of justice, then you can exercise your discretion under section 344. It does not in any way tie his hands, it leaves his hands absolutely free. It takes away the mandatory provision of compulsory adjournment, leaving the magistrate to deal with the application in any way he likes. Therefore my submission is.....

**Mr. D. K. Lahiri Chaudhury** (Bengal : Landholders) : I want to ask a single question. Supposing in a case there are a number of accused who are all tried together. Supposing one of the accused applies for adjournment and he gets it. Does that preclude the other accused from applying for an adjournment ? Will the applications of the other accused also be dealt with and disposed of on their merits ?

**The Honourable Sir Brojendra Mitter** : That question is covered by subsequent amendments and I shall answer my Honourable friend's question then. I hope I have satisfied my Honourable friend Mr. Jog that the word 'require' does not tie the hands of the magistrate.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions : Non-Muhamadan) : May I explain to the Honourable the Mover of this amendment that in the Select Committee this very clause was under discussion and some members of the Select Committee were under the same misapprehension under which some Honourable Members of this House seem to labour now. They also said that they were of opinion that this proviso, "that nothing herein contained shall require the court to adjourn" is more or less a direction to the court not to adjourn otherwise than under the provisions of this clause. Being under that misapprehension, we were anxious that, misapprehension though it was, it should be removed, and so we added an explanation ; the explanation being, "Nothing contained in sub-section (8) or sub-section (9) restricts the powers of a Court under section

[Sir Hari Singh Gour.]

344". So, we made it abundantly clear that if anybody is under a misapprehension of what the court is not required to do, it shall not do it is not the object of the legislature. All that it means is that the Court is not compellable to do a certain thing, leaving the Court the option which it does possess under section 344. Honourable members of that Committee have, therefore, overcome that misapprehension which some Honourable members in the House also feel as to the ambiguous expression used in the proviso. In view of this explanation, I think there is hardly any room for ambiguity in the matter.

**Mr. S. G. Jog :** In view of the explanation given by the Honourable the Law Member and also by the Leader of the Nationalist Party, I beg leave to withdraw the amendment.

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

"That leave be granted to the Honourable Member to withdraw his amendment."

The amendment was, by leave of the Assembly, withdrawn.

**Mr. T. N. Ramakrishna Reddi :** Sir, I beg to move :

"That in part (c) of clause 2 of the Bill, in the proviso to the proposed subsection (8), all the words and commas occurring after the words 'subsequent intimidation from the same party' be omitted and a full stop be placed after the word 'party'."

The object of this amendment is to enable the other accused in any case in which there are more than one accused to make an application for transfer from the court from which they are tried. This amendment also covers the doubt expressed by my Honourable friend Mr. Lahiri Chaudhury. I do not know if my Honourable friend is a lawyer and even if he is not one, it is clear, even from a common sense point of view that this amendment is absolutely necessary. As I already said, it is a fundamental principle of law that one accused does not represent the interest of the other accused. So, this privilege that is given to one accused should be given to the other accused as well in that particular case. There are several cases where the interests of the accused differ. For instance, persons may be charged with the offence of committing theft and also receiving stolen property, or they may be charged for manufacturing coins or for using them. There are ever so many cases covered by section 239 of the Code of Criminal Procedure by which different sets of people could be brought under the same trial. If the interest of one accused is to apply for adjournment at a particular time, it may not be to the interest of the other accused to apply for a transfer at the same time. Or occasions might arise when after one application by one of the accused, it is absolutely necessary for the other accused to put in an application for transfer of the case. Or else the effect will be like this. There will be a regular race among the accused to take advantage of one compulsory adjournment and to apply for transfer. The other day, my Honourable and learned friend Sardar Sant Singh quoted instances where in rioting cases a number of accused, or sets of accused as it were, could be brought to court and where the interest of one accused would be contradictory to the interest of the other accused.

**Mr. B. R. Puri (West Punjab : Non-Muhammadian) :** In what way ?



**Mr. T. N. Ramakrishna Reddi :** In that case, one accused might have to prove the case against the other, or on the other hand one set of accused might have to prove the case of the prosecution, and so on.

**Mr. B. R. Puri :** If there are two rival factions, one joint trial will be illegal.

**Mr. T. N. Ramakrishna Reddi :** There may not be two defences, but as the case proceeds, the interest of the accused might become divergent. I think my Honourable friend, Mr. Puri, as the leader of the Lahore Bar, must have come in contact with many instances where the defence of one accused differs from that of the other accused. For all this it is quite

1 P.M. essential that the other accused also should be given

the same privilege as is given to the accused who applies for the adjournment first.

Again, Sir, supposing,—it is a very rare case but we have to provide against rare cases also,—supposing the magistrate has got a grudge against one of the accused, and either he or the police induces one of the accused to file an application for transfer on insufficient grounds, knowing very well that he could not get any transfer from that Court. Of course as he has been induced to file an application for transfer the magistrate will not be prejudiced against him, but all the other accused are absolutely in his hands. This proviso prevents the other accused from making applications for transfer as they are absolutely in the hands of the magistrate and he can wreak his vengeance against the other accused who will be absolutely without any remedy at all.

Then there are other cases also. Supposing one accused genuinely feels a grievance against the magistrate and he files an application, and when he goes to the High Court the leaders of the Bar may advise him not to file an application for transfer before the High Court as the grounds alleged by him may not be enough to get him a transfer. Then the poor client has to accept the advice given by the most eminent lawyers and he goes back to be tried by the same magistrate. Then the other accused also have to suffer because this man who went there first went on insufficient grounds and exhausted the privilege of one compulsory adjournment.

Then take another case. Suppose one accused has got very sufficient grounds and he goes to the High Court and files an application. Then at the time of the hearing, because he is unable to pay the counsel's fees or for some other reason, he makes no appearance and the case goes by default. In this case also though there are enough grounds in his favour, because his case goes by default, he has to go back to be tried by the same magistrate and the other accused are deprived of the right to apply for adjournment. Numerous cases like these often arise, and so in order to give to the other accused the right which one accused has got, this amendment is absolutely necessary. Government have succeeded in defeating all other reasonable amendments and they have achieved their object of putting an end to all these frivolous applications by giving only one compulsory adjournment, by making the accused execute bonds for heavy amounts in the court, and by empowering the High Court to impose heavy compensation if he goes there and fails because of insufficient grounds. By all these provisions the privilege which has been given to one accused has been made absolutely nugatory, and this would effectually prevent any sort of application being

[Mr. T. N. Ramakrishna Reddi.]

made for transfer. Having succeeded in all these provisions Government must now accept this reasonable amendment because in accepting this they will be doing bare justice to the accused in the case. So I beg to move this amendment for the consideration of the House.

**Mr. Lalchand Navalrai :** Sir, I rise to support this amendment and I have got one ground which I will put to the Law Member and he will probably find it difficult to answer it. That point is this. This amendment aims at giving an opportunity or right to more than one accused to apply for adjournment. If that is refused, a difficulty arises which can be illustrated thus : Let us take it that there are two accused in a case. Both of them are aggrieved at the hands of the magistrate or the Court in which the case is being tried. They propose that one of them should apply for adjournment. That man files an application and gets an adjournment of about ten days. Then, within those ten days, Government succeed in making him an approver and he becomes a witness instead of an accused. Then what happens ? The accused who applied for an adjournment and got it comes out of the dock and goes into the witness-box. Now, may I ask, whether the other accused can compel the magistrate to give him an adjournment for applying to the High Court for transfer ? If not, a clear injustice will be done. I submit that in the enthusiasm or rather in the anxiety to curtail the rights of the accused and giving undue listening to the complaints of the Courts that their hands have been tied down by compulsory adjournments when they are asked for, every reasonable amendment or reasonable provision that is sought to be made is being rejected. I submit that this is a sorry state of affairs which the House should take notice of, and give an opportunity to the other accused also for making applications.

**Mr. B. R. Puri :** Sir, I am afraid that the apprehension of my Honourable friend who moved this amendment and also that of the Honourable Member who followed him as regards the danger which is likely to accrue from the law as proposed by the Select Committee is somewhat illusory. The point to which we have to apply our mind in connection with this amendment is that where there is more than one accused involved in a criminal trial, whether the right of the other accused is likely to be prejudiced in the event of one accused having applied unsuccessfully for the transfer of the case. The position taken up by the Honourable the Mover of this amendment is that it would be highly unfair and prejudicial to the interests of the other co-accused if one accused were to rush to the High Court with an application which he is not able to substantiate and if thereby the other accused persons who may have hereafter perfectly good grounds for asking for transfer are, on account of that first application being rejected, debarred from pursuing that course. In the first place, Sir, it is absolutely essential for me to remind my Honourable friends that what they seem to ignore and forget is that these provisions in no way affect the right of the parties or of the accused to apply for the transfer of the case. The only thing which they are not able to secure, by virtue of somebody else having secured an adjournment, is that subsequent adjournments shall be denied to them ; and that too not necessarily.

**Mr. Gaya Prasad Singh** (Muzaffarpur *cum* Champaran : Non-Muhammadan) : What is the right ?

**Mr. B. R. Puri :** The right is that each and every accused person has got a right irrespective of whether there have been ten or twenty petitions for adjournment or for transfers before, he has got independently a right to go and seek, on his motion, on the strength of his own case, to go and move the High Court for the transfer of the case. That right is not affected by anything contained in the previous law or in the present law....

**Mr. T. N. Ramakrishna Reddi :** Then why should you not take away the whole of this section altogether ?

**Mr. B. R. Puri :** I am coming to it. The question is whether the principle which my Honourable friend is advocating is really sound. After all persons suffer by bad association outside the court just as much as inside the court. If I am placed unfortunately in a position where I am tacked on to half a dozen other accused persons, under the existing law not only in this country but in every civilised country, I take it, each one of them stands to gain or lose by the acts of their companions. There are advantages and disadvantages in this comradeship. I shall give an illustration in support of what I have said. We are quite familiar with Sessions trials where more than one accused person are being tried. If one accused person leads defence evidence in spite of the protest and entreaties of the other accused that the production or leading of evidence might prove fatal to the whole case, but yet if one of them persists in leading evidence for the defence, that will not only affect that man who is leading the evidence, but the whole lot of the accused stand to suffer, because they shall have lost the right of reply which otherwise was theirs if no defence evidence was led. This is an illustration of the disadvantage which accrues when there are a number of accused. I shall now give an illustration where the accused stand to gain. If there is more than one accused being tried together and if on the same facts one accused is acquitted, it would strengthen the case immensely in favour of the other accused, who may be convicted, before higher court ; they can very reasonably urge that on the self same evidence one man having been acquitted, there does not seem any reason or just ground why on the same evidence the others should not be let off.

**Mr. Lalchand Navalrai :** If the interests and facts are the same.

**Mr. B. R. Puri :** I grant ; if the interests and facts are the same no doubt ; and therefore I was careful to say if on the same evidence one man was let off and another was convicted, it would be a distinct advantage to the convicted man when he appeals against his conviction....

**Mr. T. N. Ramakrishna Reddi :** I want to know how this illustration is relevant.

**Mr. B. R. Puri :** I am only endeavouring to show that this is not a solitary isolated provision of law and that if you follow the principle which underlies, you will get illustrations in several other provisions of the Code. I am giving you an instance so that you may be able to see for yourself what is the underlying principle, which is that where there are more than one accused, each accused stands to gain or lose by the acts of the others ; and that if you desire to ignore this principle, you shall consistently have to ask for the repeal of several other provisions of the Code.

**Mr. T. N. Ramakrishna Reddi :** Is there any section in the Code to prove his illustrations ?

**Mr. President (The Honourable Sir Ibrahim Rahimtoola) :** The Honourable Member does not seem to realise that the Honourable Member Mr. Puri is replying to the arguments which Mr. Lalchand Navalrai advanced in favour of the amendment.

**Mr. Lalchand Navalrai :** But which have not yet been met.

**Mr. B. R. Puri :** Now, there is no good for my Honourable friend to keep reminding the House time and again that where there are several accused persons, their interests may clash ; they may—I am quite willing to concede that. Whoever advanced the argument that when there is multiplicity of accused persons their interests must always coincide with each other ? But the mischief for the purposes of the present provision would only creep in not where the interests clash but where the interests of one or more accused persons coincide with the interests of the prosecution. In other words, where the prosecution and some one amongst the accused are colluding with each other ; then it might possibly be urged that because one of the accused persons has been prompted or induced by the prosecution to go and put in a transfer petition in order to prejudice and harm the prospective rights of the other accused. Let us consider such a case. In the first place, how many cases in practice—I will put it to the good sense of my Honourable friend—can he cite where such has been the case, where the interests of the prosecution and that of some one of the accused have coincided ? On the other hand, the mischief which this provision is intended to prevent is that where there are ten or twenty accused persons, if each one of them is given independently the right of asking for adjournment on the strength of their independent cases, there might be ten or twenty adjournments of a compulsory character or as many as there are accused. The result would be that the thing would be carried to an interminable limit. My learned friend therefore is thinking of cases more or less of a hypothetical character which in practice would be very seldom met. Side by side we have also got to remember that when in a case like this an accused person goes before the High Court, with the deliberate intention of injuring the prospects of the other accused, and if the High Court ultimately rejects his petition he shall have to pay a heavy amount of fine or compensation, who is going to find it ? In any case the other accused also would be represented in the High Court ; the petition will not be disposed of *ex parte* ; the other accused will have a say in the matter and it will be open to them to urge before the High Court that the petition was collusive. In practice therefore one does not stand to suffer in any way ; and I therefore submit that this apprehension which has prompted my learned friend to move this amendment is nothing but illusory.

**The Honourable Sir Brojendra Mitter :** Sir, I oppose the amendment. I will answer my Honourable and learned friend, Mr. Lalchand Navalrai, first. There are two accused, both having a grievance against the magistrate ; both want a transfer. As regards one, the prosecution maliciously makes him or intends to make him an approver and make him apply for a compulsory adjournment so as to deprive the co-

accused of a right of similar application. The obvious answer is, if both have a grievance against the magistrate, why can't they file a joint application ?

**Mr. Lalchand Navalrai :** If one applies it is sufficient ; why should the other man pay ?

**The Honourable Sir Brojendra Mitter :** If a joint application is made, when one drops out, the other remains.

**Mr. Lalchand Navalrai :** In the first place, I do not think a joint application can be made.

**The Honourable Sir Brojendra Mitter :** Sir, it has been consistently ignored in this debate that when a person wants to apply for a transfer, the relevant considerations are, either the bias of the magistrate, or his incapacity or the convenience of the parties. These are the three main heads of grounds for transfer. It is conceivable that the magistrate is a witness in the case, or he has a personal interest in the case. That would be a case of incapacity. These are the three broad grounds on which applications for transfers are made. Whether the several accused have got a common interest or a common defence is not such a material factor in an application for transfer as the three I have just now mentioned. When the first application is made, say, on the ground of bias or incapacity, there is a compulsory adjournment. All the accused get an opportunity of establishing before the High Court that the magistrate is biased or he has a special interest or he is under some sort of disability or incapacity to try that particular case. Every one gets an opportunity to have his say, whether the application is made by A, B or C. There will be no difficulty in practice in a proper case for transfer. In frivolous cases, no doubt, the accused will be somewhat handicapped under the present measure, and they will not have that freedom or I should rather say license which they have under the existing law.

**Mr. S. C. Sen** (Bengal National Chamber of Commerce : Indian Commerce) : But if no application is made ?

**The Honourable Sir Brojendra Mitter :** It is to curb that license that this measure has been brought. Sir, if this amendment is passed, what is the consequence ? The consequence is there may be as many compulsory adjournments as there are accused. If there are 25 accused, there may be 25 compulsory adjournments apart from the discretionary adjournments which are always there. The amendment defeats the whole purpose of the Bill, and I oppose it.

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

“ That in part (c) of clause 2 of the Bill, in the proviso to the proposed section (8), all the words and commas occurring after the words ‘ subsequent intimation from the same party ’ be omitted and a full stop be placed after the word ‘ party ’ ”

The motion was negatived.

[Mr. President (The Honourable Sir Ibrahim Rahimtoola) called Mr. Jog to move his amendment, but Mr. Jog was not in his place.]

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : I want to know whether any Honourable Member wishes to move any of the amendments still remaining to be disposed of.

**Mr. Lalchand Navalrai** : Sir, in view of the fact that two of my previous similar amendments have been lost, I do not want to press my amendment No. 18.\*

For the reasons I have already given, Sir, I don't move my amendment No. 20† also.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

**The Honourable Mr. H. G. Haig** : Sir, I rise to move :

“ That the Bill, as amended, be passed.”

We have, I think, in this House discussed very fully the various points that arise in this piece of legislation. Though we have not been able to accept the amendments that have been moved, the House, I am sure, will remember that a number of changes, and changes of great importance, were made in the Select Committee, and they also considered all the various points raised in the amendments. I am confident that by passing this Bill as amended, the House will be placing on the Statute-book a valuable and sorely needed improvement in our Criminal Procedure. Sir, I move.

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

“ That the Bill, as amended, be passed.”

(At this stage Mr. D. K. Lahiri Chaudhury rose to speak.)

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : Do you wish to speak ?

**Mr. D. K. Lahiri Chaudhury** : Yes, Sir.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : The House will now adjourn till 2-40.

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

The Assembly re-assembled after Lunch at Twenty Minutes to Three of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

**Mr. Lalchand Navalrai** : I feel bound to oppose this Bill at this third reading, not merely for opposition sake, but because I do really feel that this

\*“ That in part (c) of clause 2 of the Bill, in the proposed sub-section (10), the words and commas ‘ upon such party executing, if so required, a bond without sureties of an amount not exceeding two hundred rupees that he will make such application within a reasonable time to be fixed by the Court ’, be omitted.”

†“ That in part (e) of clause 2 of the Bill, in the proposed sub-section (10), after the words ‘ to be fixed by the Court ’ the words ‘ not less than fifteen days ’ be inserted.”

Bill, as it is now before the House, is very harsh for the people. My justification for opposing the Bill is that all reasonable suggestions that have been made for improving it after it has emerged from the Select Committee have not been accepted. (*An Honourable Member* : "Not even one.") I do not propose to repeat the arguments that I have placed before the House from time to time with regard to this Bill. I submit that this measure is not a new measure. Section 526 was fully considered in 1923 when the legislation with regard to it was enacted. We know that before 1923 there were certain inconveniences and abuses that had to be corrected. It was not that in 1923 the Legislature did not consider the matter fully. It was fully considered, not by one Committee but by two Committees ; then it came before this House and then it went to the Council of State. All of them agreed that the accused or the parties were suffering very much at the hands of the Courts and magistrates who autocratically refused their reasonable requests. It was from that point of view after considering the whole thing carefully they came to the conclusion that the accused should be given the unrestricted right of applying for an adjournment in order to get a transfer at the hands of the High Court, and the right to apply for an adjournment as many times as the aggrieved party feels necessary. That was not enacted as a matter of course ; that was because the magistrates and the courts had previously shown by their conduct that they were not complying with the reasonable requests of the accused or the parties. They believed only in expediency ; they rushed through cases, no matter whether justice was done or not. They wanted to dispose of as many cases as possible. The higher officers were executive officers and they were sure to applaud them for their quick disposal ; otherwise their promotions were likely to be in danger. Therefore, the Legislature thought that these magistrates and courts had done harm to the people and the remedy was only to give as many opportunities as possible to the accused or the complainant for applying for an adjournment of the case. However, they attached a penalty, and I think it was a right penalty, that if the transfer applications were frivolous, or vexatious, or false, the party concerned had to be mulcted in costs. That had the effect of two punishments, one, in his own costs, and the other, in the costs of the other party. This went on very well. Nobody ever thought that this practice was such as should be stopped or that the rights of the accused should be curtailed. I myself have experience of magistrates. Whenever you go and ask them for an adjournment, they would give it much against their will, as their hands were tied down. They thought that one day they must bring pressure on the executive to bring in a Bill to undo all that was granted in 1923. We see the effect of it now. In this House at present the executive could have more votes, but it is unfortunate that the rights of the accused are going to be curtailed and the hands of the magistrates are going to be unnecessarily strengthened. When this Bill was being sent to the Select Committee, the case of the accused was fully placed before the House by my Honourable friend Mr. Puri, but since it has emerged from the Select Committee,—I was not a member of it myself—I should think, from the manner in which the Bill has been treated in this House, that it had been made a subject of only a compromise which is now influencing it to be enacted into law. The country will know when this Bill is passed that it was not enacted on its merits, but it was passed because those of the popular side who support it thought that they would lose even the one chance of getting a compulsory adjournment, if they did not accept the compromise. There is however not much grace

[Mr. Lalchand Navalrai.]

in the compromise—it is like giving with one hand and taking it away with the other.

The Bill increases the amount of penalty which the High Court can impose. From this side of the House, reasons have been given, illustrations have been put forth to show that whatever the other side is doing is not based on any sound reasons. Those illustrations have been given to the House, and I shall presently show that they have not been refuted ; but because the Bill came in by way of a compromise made in the Select Committee the attitude is to persist in it. With regard to this compensation the reason given was that it was not possible to always assess the costs properly. Is this reasonable ? The argument was put forward that the Legal Remembrancer has got a fixed salary and his fees cannot be assessed. It was urged on this side that that was not an insuperable difficulty and that his fees can be fixed for a particular transfer application. No reply has come to that. Therefore I submit that this enactment as regards compensation is not a right one. On the contrary you are leaving it in the hands of the courts only to increase the penalty for which there is no necessity. Then, Sir, with regard to the compulsory adjournment, I think in my humble opinion it is really curtailing the rights of the accused person if you restrict him to one compulsory adjournment. There is some force in the argument that the accused may at their own choice deter the magistrate from going on with his case by making many applications, but we have given certain substantial reasons. It does not always happen that people will lose their head and go on making applications after applications and exposing themselves to the penalty by the High Court for frivolous applications. Consider the other side also, that you are actually curtailing the right which the people have enjoyed since 1923. You are with one stroke only giving them one adjournment. That may be all right but I submit that the conditions that you attach to this one compulsory adjournment nullifies the concession that you have given. There is a condition that when he applies even for the first time he shall have to execute a bond and say that if he is not applying for a transfer he shall have to pay Rs. 200 as penalty. I submit that this is very hard, especially when the accused has had the opportunity till now of asking the Court to postpone the case for any number of times. You bind him now with a technicality which can be turned to use by the magistrate in any manner he likes. Again there is another anomaly, namely, that the magistrate shall fix the time within which you will have to make the application. That is very hard indeed. A reasonable time should be given to him to make that application and I do not see any reason why the Court should fix the exact time for it. Any way I find that this provision put in the Bill is inconsistent and anomalous to the latter portion of the provision which prescribes that the magistrate in giving an opportunity for making an application for transfer shall give a fixed period of time such as within which the application could be made and order obtained. Hardships as these entitle the Bill to be thrown out even at this stage.

Coming to the question of the several accused, I am sorry to say that neither my Honourable and reputed friend from Lahore nor the Law Member were able to give a satisfactory reply to the illustration I placed before the House to show that there is a difficulty in not giving adjournment to



each of the accused separately. I will repeat it. Suppose there is a joint trial and there are two accused, both are aggrieved at the hands of the magistrate. One of those accused gets a compulsory adjournment from the magistrate. Thereafter the Crown thinks that he is a person who can be turned into a witness ; this is done and then there remains only one accused before the court, the other having come out from the dock to go to the box. Now the remaining accused finds it necessary that he should apply for an adjournment. The magistrate will say ' No. Only one adjournment had been ordained and that has been given. You must face the difficulty now, and see for yourself that in such case a fair and impartial trial could not be obtained '. Now what was the reply that the Honourable Mr. Puri gave. He said that it was only a hypothetical case. I am surprised that such an able and experienced lawyer should say that. Don't we know in actual practice that there are cases like that, that some accused are turned into approvers ? What reply did the Law Member give ? I do not think there was any reply more satisfactory than that given by my friend Mr. Puri. I am submitting that the whole Bill is full of flaws and it is not right that we should pass it in its present form. Every one who knows the procedure of the courts and the manner in which the courts are carrying on will certainly say that this Bill is likely to be abused by the courts. This Bill as it encroaches on the rights not only of one community, one sect or one race, but of the whole people of India, male and female, if you allow it to be made into law, you will only embolden the Treasury Benches to bring such measures more and more to affect the rights of the public. (An Honourable Member : " Wait, the Ordinance Bill is coming.")

3 P.M.

Well, I know the Ordinance Bill is coming ; and I think it is for the House to be strong. On this Bill, however, a position has been created in which only pleaders and counsel Members of the House are feeling much interested—of course the opposite Government Benches are strong—and it will, therefore, be so much better if non-lawyers try to follow the position as to what really are the difficulties of the parties. I expect then that those other Honourable Members who are not lawyers will also get up and even at this third stage oppose the Bill and throw it out. The Bill as a whole is very bad and oppressive and I oppose it.

**Mr. F. E. James** (Madras : European) : Sir, the Member, who has just sat down, made the most disrespectful allegation that this House has not considered this Bill on its merits. As a Member of the House and also as a member of the Select Committee, I desire to protest against that statement. Sir, this Bill has received every consideration at the hands of this House ; and at this last stage I desire to congratulate the Honourable the Home Member upon having piloted this Bill to this point, and I would ask him not to regard this so much as an achievement, but as the beginning of a long process of further reforms. (Laughter.) (A voice : " In the way of more Ordinances !") Sir, I am glad to see that the next item on the Government's programme is to be received with such geniality ; I hope that will be continued. (An Honourable Member : " Wait and see !") Sir, I do want to impress upon the Home Member that there is a very strong feeling in support of the contention throughout the country that there are delays in the course of justice, both in respect of criminal and civil procedure, that are a real blot on the administration of justice in this country. I believe, Sir, that this Bill will provide a very valuable beginning in the right direction. But I do most sincerely trust that the House

[Mr. F. E. James.]

Member, though I know he has many other pre-occupations, will realize that this is only a beginning. I should like to look forward to a long series of Bills which he will bring forward designed to speed up the execution of justice not only in criminal procedure but also in civil procedure.

**Mr. Lalchand Navalrai :** Try all people summarily !

**Mr. F. E. James :** There may be some people who do deserve summary execution ! Sir, the present administration of this country which is now drawing to its close, brought to India impartiality in the administration of justice and speediness of execution. For various reasons this impartiality has been weakened of recent years, and, also, for various reasons, that speed of execution which is a feature of the British administration of justice has also been slowed up. I therefore suggest to the Honourable the Home Member that he could put his hand to no greater task than that of remedying the defects in the administration of justice in this country in the direction of removing many of the great obstacles in the way of speedy trials.

**Mr. Lalchand Navalrai :** The Honourable Member might press for the separation of the judicial from the executive functions, in that case.

**Mr. D. K. Lahiri Chaudhury :** Sir, following the previous speaker, I must say that he was not speaking, as I also do not, from the lawyer's point of view. But although one may not have the capacity and standing of a lawyer, I think in this House whenever any measure of legislation is moved, every Member has got the right to express his individual views on the merits of the measure and, from that point of view, I must not lose my right at this stage to make such observations as I think to be necessary on this Bill.

Firstly, with regard to the sum which has been put here, "not exceeding Rs. 250", that amount was mentioned by the Honourable the Home Member as the minimum security which they could impose. (*An Honourable Member :* "Maximum.") I stand corrected, that is the maximum sum. But may I ask the Honourable Member whether any attention had been paid to the general *per capita* income of an Indian when a sum of Rs. 250 is not a minimum sum but may be the very maximum sum within the reach of those who may be in the dock ? When you are moving legislation, you must not move legislation from one point of view (*Mr. S. C. Mitra :* "The rich man's point of view") ; and it is really the fact that the Home Member certainly might have considered whether this Bill should not only deal with those people who can easily afford to deposit Rs. 250 but with those people who cannot afford to pay that sum.

**The Honourable Sir Brojendra Mitter :** It is not a deposit, but a personal security.

**Mr. D. K. Lahiri Chaudhury :** And this amount of personal security, I think, will be very difficult to supply ! I think the Honourable the Law Member will agree with that ?

**The Honourable Sir Brojendra Mitter :** He need not forfeit it. If he makes his application, then the bond is *ipso facto* cancelled.

**Mr. D. K. Lahiri Chaudhury :** Take, for instance, the case of a man who has deposited this money.

**The Honourable Sir Brojendra Mitter :** Not "deposited"; he furnishes security.

**Mr. D. K. Lahiri Chaudhury :** Supposing, after submitting the bond or security, his legal advisers advise him not to move the higher Court on the ground that the case is very weak. In that particular case, that money is forfeited. What is the provision for that; and if he loses that right in that particular case of moving an adjournment motion to the High Court.....

**The Honourable Sir Brojendra Mitter :** What we suggested was that he should take his advice before he makes his application and not take his advice after making his application.

**Mr. D. K. Lahiri Chaudhury :** Exactly; if I may just point out, if a security of Rs. 250 is demanded, then supposing the legal advisers say that the case is not so strong, in that case the money is forfeited, and he is a loser. Does he not admit that? And, again, where is the time to consult the legal authorities when the case sits day to day.

**The Honourable Sir Brojendra Mitter :** I do not follow the Honourable Member's reasoning.

**Mr. D. K. Lahiri Chaudhury :** What I want to point out is this, that this Bill, as drafted now, is not only detrimental to the interests of the people but to those of the Government as well. They also generally lose income over this.

**Mr. Lalchand Navalrai :** And Government servants also will suffer.

**Mr. D. K. Lahiri Chaudhury :** Now, the next point I want to emphasize is about the right of moving an adjournment. I did not find it cleared up, and nobody in this House could convince me. Once an adjournment motion is moved, the second accused person loses his right of moving the same motion on any other ground. This has been very rightly put by my Honourable friend, Mr. Lalchand Navalrai, and that has not been cleared up by Mr. Puri. So far as I know, when the Bill was tabled, there was a very strong sense in this House that the right of the accused should be preserved as far as practicable.

Now, the Bill, as amended by the Select Committee, does not make any provision for those who are really accused. Sir, in the case of joint trials, if one person has moved for an adjournment on a particular ground, it will be entirely in the discretion of the magistrate to allow the other accused persons to move for adjournment. What we had thought, Sir, was that this Bill was to preserve the rights of the accused persons. But I see that in this amended Bill this provision has not been made. That is a fundamental point on which I differ from other Honourable Members who have supported this Bill. Then, Sir, this Bill is going to be placed on the Statute-book for good. So, this Bill goes against the fundamental principle of jurisprudence and the cart has been placed before the horse. The law of jurisprudence is that no man is guilty unless his guilt has been proved in a Court of law. This Bill, generally speaking, surmises first that the man who is going to be tried is guilty and he has to submit a security or bond of Rs. 250. It is, really speaking, a very bad precedent and ought not to be allowed by this House. Sir, I oppose this Bill mainly for the reason that the Bill which was first introduced in this House could not be sufficiently improved in the Select Committee. I also differ from my Honourable friend, Mr. James, when

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he said that sufficient consideration has already been given to this Bill. I do admit that some consideration has been given to it but it has not been sufficient. I maintain, Sir, that there ought to be some provision in the Bill for the accused to move for the adjournment. It must not be left to the discretion of the magistrate alone, however responsible he may be. At least public opinion sometimes might go against him. Sir, I oppose the Bill.

**Dr. F. X. DeSouza** (Nominated Non-Official) : Sir, I should like to claim the indulgence of the House for a few minutes before the House is called upon to vote on the third reading of this Bill. I think the magistracy throughout the country will heave a sigh of relief when this little Bill is placed on the Statute-book. The principle underlying this legislation, as we all know, is the very salutary principle of English jurisprudence, that not only will all duly constituted tribunals administer impartial justice to those who are brought before them, but that at any stage of the trial there should not be in the mind of the accused person a reasonable ground for apprehension that he will not receive impartial justice. In England application for transfer of criminal cases can only be made before the trial commences on certain broad grounds stated by the Honourable the Law Member. But after the trial has once commenced, so far as I am aware, the English law does not permit the transfer of criminal cases. In India, however, this principle has been carried to what I may call quixotic lengths. I remember trying a case when I was a young magistrate many years ago. It was a case of theft of goods worth about Rs. 50 from the provision stores of a well-known firm, Messrs. Treacher and Company who are now defunct. This matter went up in revision before the Honourable High Court and one of the Honourable Judges refused to hear the application on the ground forsooth that he held two shares of the face value of Rs. 100 each in that concern. Well, Sir, that shows the extreme limits to which Judges in India are accustomed to carry this principle. But the legislation of 1923 went much further and carried the principle to what I consider absurd limits. What, Sir, was the effect of the legislation of 1923? At any stage of the trial it was open to an accused person on the most frivolous pretext to demand an adjournment as a matter of right and to guillotine the trial. As the Honourable Mr. Justice Lort-Williams puts it, its effects on the administration of criminal justice were disastrous. In the case of an accused person it put power into his hands to postpone his conviction as long as he thought fit and in the case of a vindictive complainant it put power in his hands to postpone the acquittal of an accused person till such time as he thought fit. Sir, this state of things is bound to bring the administration of justice into contempt. But this legislation has even a more undesirable feature. It purported to inspire continued confidence in his tribunal in the mind of the accused person. But at what price? I venture to think that the price paid was far too high. It put into the hands of the accused person and his advocate a weapon which, I think, and I speak with deliberation, tended to undermine the independence of the magistracy. I may be asked in what way? I will explain that to the House. The accused person or his advocate could with impunity make a statement, however libellous, against the magistrate concerned and we all know that if you fling lot of mud at anybody some of

it is bound to stick. I am not speaking of hypothetical cases but I am speaking from the kinds of complaints that have been made to me when I was an authority in the Province of Sind. I will tell the Assembly the nature of complaints that were addressed to me and I have no reason to suspect that these complaints were not true. When a leader of the High Court Bar appeared before a subordinate magistrate, there was always an instinctive fear in the mind of the magistrate. He knew that the learned leader of the Bar had the ear of those in authority and what is more, under the present conditions he also knew that the leadership of the Bar is the stepping stone to the seats of the mighty. The Honourable the Home Member told us that some applications were made to the High Courts in which the colour of the magistrates' tie and the expression of his face were urged as grounds for a transfer. I have been told of cases where the intonation of the learned Advocate's voice and the pose of his body when he addressed the Court inspired misgiving in the minds of the magistrates as to what was in store for them if they incurred the displeasure of the Advocate. After all the poor magistrates are human beings and they have responsible duties to perform ; and it is not likely that they would be able to administer justice impartially and dispassionately when their minds are perturbed. I therefore welcome this legislation with all my heart because I think in future no frivolous applications, no libellous observations in such applications against the character of the magistrate can be made with impunity.

One word more and I have done. In scanning the names of the members of the Committee who drafted this legislation of 1923, I find it was composed mostly of very eminent lawyers ; but of those who constituted the official element, there were only exalted officials of the Government of India who had left their magisterial days far behind in the dim and distant past. That, Sir, I think was partly the reason why the hardship and difficulties of the magistrates were not seriously considered in the legislation of 1923. May I suggest to the Honourable the Home Member or whoever is in charge of the selection of members to these Committees that whenever legislation of this kind comes up in future, he may draft one or more Members of this Assembly who are in actual harness as magistrates. Provincial Governments depute officials to this House from among whom it should not be difficult to select members who will be glad to place their experience at the disposal of the Select Committees. With these observations, I ask this House to pass the Bill. (Applause.)

**Sir Hari Singh Gour :** My Honourable friends on the Opposition Benches have perhaps alluded to this Bill beyond its ordinary deserts. As one who served on the Select Committee and has appended his signature to the majority report, I feel constrained to explain to Honourable Members my own position why and for what reason I, and those who agree with me, became participants in the further progress of this measure. Honourable Members behind me have complained that the Bill has emerged from the Select Committee without those important changes which they indicated and which have deprived the accused of those rights and privileges to which according to them they were entitled. I think Honourable Members will perhaps recall the history of this very important measure. The history of this measure goes back to the old Code of 1882 and in 1916 when Mr. Lowndes Committee passed the whole of the Code

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of Criminal Procedure in review they made some important suggestions which culminated in the enactment of the measure in 1923 including section 526 as it is to-day. Since then nearly ten years have passed and the Honourable the Home Member informed this House on the day he asked for confidence of this House for going to the Select Committee with this Bill, that this section had become a ripe source of causing interminable delays on the part of the accused who for one pretext or another asked for adjournment ostensibly for the purpose of applying to the High Court for the transfer of the case on the ground that they had lost confidence in the magistrate, but having obtained that transfer they thought better of it and appeared at the next hearing only to renew by another application of a like character with the like intention and a like result. There was no limit to such applications, the result being that while the accused were threatening to file applications before the High Court, the High Court never received any application and the course of justice was delayed. That is the gravamen of the Honourable the Home Member's complaint and he therefore asked this House that some limit should be placed on the power of the accused to delay proceedings by asking for frequent adjournments which the magistrate had no power to refuse. Honourable Members will, I think, agree that it is in the interest of justice that the accused should not be armed with power to ask for adjournments which they have no intention to utilise in putting application for transfer and thus interminably prolong the proceedings, and thus defeat justice. I do not say that justice is defeated only by their conviction or by their acquittal, because section 526 applies equally to the complainant and to the accused, though in point of practice it is a right which is frequently exercised by the accused. Now, Honourable Members had sent this Bill to the Select Committee and therefore, they, *prima facie*, have accepted the principle, the principle being that a reasonable fetter should be placed upon the frivolous and *mala fide* applications on the part of the accused.

The question, therefore, is whether we have gone beyond the mandate we received from this House to amend the provisions of the section beyond the immediate necessity of the case. Sir, I have been listening to the numerous speeches delivered on the floor of this House by Honourable Members, as also to the several amendments moved by Members of the Opposition Groups. If I have refrained from speaking so far, it has been because I was anxious to hear all that they had to say and to give them a fair chance of enforcing their views upon Honourable Members of this House. That stage has now passed and we are, therefore, now to review the situation as we find it before the Bill is translated into an Act of the Central Legislature so far as this House is concerned.

I submit, Sir, that I am not one of those who are enamoured of any provisions inserted in the Code of Criminal Procedure which would unreasonably fetter the right of the accused, and Honourable Members know it. And when this House with one voice committed this Bill to Select Committee, what were the members of the Select Committee to do? It was their plain duty to carry out the behest of this Honourable House. And the question, therefore, that now arises is whether the members of the Select Committee have been guilty of a dereliction of

duty by placing improper fetters upon the right of the accused or whether they have in any way unduly curtailed the rights and privileges of the accused to the detriment of justice. That, I submit, is the short question which this House has now to consider.

Sir, boiling down the numerous arguments and amendments to which this House has been treated I find that there are really three objections that have been taken to this Bill. Let me categorise them. The first one is that while the accused had heretofore and now unlimited rights of obtaining compulsory adjournments this right has been curtailed by limiting adjournments to a single one. Now I ask Honourable Members, if the Select Committee were to allow unlimited adjournments, would they have been carrying out the purpose for which this Bill was sent to the Select Committee? Was it not a main principle of the Bill that a curb should be placed on unlimited adjournments? Therefore we would have been overruling the combined wisdom of this House if we had come back to this House and asked it once more to say that the accused had unlimited rights of adjournments. That, I submit, would have been a position to which no self-respecting Select Committee would commit itself. That is the first point that Honourable Members must bear in mind. But having said that, I do not for one moment underrate the objections that have been raised by Honourable Members and these objections were raised in the Select Committee that whether we were not unduly curtailing the rights of the accused. I myself felt that an accused may have a bad case for transfer on the first occasion but that he may have at a later stage a very good case for transfer. Emboldened by his first success in the High Court on the first occasion, the magistrate may say, "You have had your one bite, now I will have mine"; and the position of the accused would then be one of abject helplessness, so far as compulsory adjournments are concerned. That is no doubt an objection, but you have still to surmount the other objection. You have one objection against another objection. The other objection is, shall we give an unfettered right of adjournment to the accused? You have said we should not. Consequently, we were placed on the horns of a dilemma. You have said that we should place a fetter upon the right of adjournment and at the same time enact such a law as will give him a reasonable opportunity of obtaining adjournments. Now if we had this idea that the accused should have two adjournments instead of one, you would have all said that two are too few, because the argument that I have advanced, namely, that occasions may arise from time to time, does not limit the right of the accused to any single or any number of adjournments. The argument gives him a theoretical right of obtaining adjournments unlimited in number. But you have decided that he should not have the right of unlimited adjournments because it leads to abuse, and therefore we had to decide between those two extreme views. One was, no adjournment at all unless the case was proceeded with and concluded so far as the evidence for the prosecution was concerned; that was the view of the Treasury Benches. The other view was that the accused must have some right, not necessarily an unlimited right. Therefore we had to decide between these two conflicting views. We have done so and everything we have done or we could do is open to the same objection. If we had decided on three objections Honourable Members on this side would have said that three are too few. What I am now trying to convince the House is that placed as we were in

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the situation in which you had placed us we had to decide and had to make some limit and that limit has been fixed by the Select Committee. I do not say it is an ideal limit and I will deny it if anybody asserts that it is an ideal limit. But I say that in matters of limitation you cannot reason. There is what many would call an almost unconscious mental process. You say that 18 should be the age of majority. Can anybody justify the fixing of 18 as the age of majority and not 16 or 21 as it is in England? You have to place a limit and you have necessarily to balance by some unscrutable process of the mind that this seems to be right and you act accordingly. Therefore I submit that you cannot dissect and you cannot justify upon its own merits anything that you could have done in the Select Committee, and that is our vindication for giving the accused one compulsory right of adjournment.

Now comes the next point. Honourable Members say, you are exacting a bond from the accused before you give him the right. But you have yourself admitted when you sent the Bill to Select Committee that *mala fide*, frivolous and vexatious applications must be discouraged. Now tell me how I am going to discourage it. You have suggested no other means of discouraging it. The only means that occurred to us,—it may not be the best one but a better one has not occurred to any Honourable Member who has spoken on the floor of the House,—was that he must take a security or a bond for security not exceeding Rs. 200, and that too is not necessary. It is not compulsory or obligatory upon the magistrate. If he finds that the accused is absolutely *bona fide* and has a reasonable case, he might say "Very well; I will give you time and I do not want any bond for it". That I submit is the next point upon which members on this side seem to feel somewhat strongly.

Then comes the third point, the question about the compensation by the High Court. Now the High Court had the power of awarding costs, and those costs are not limited. If a senior counsel appeared the cost might go up to anything between 510 and 1,530 rupees. We have limited the cost or compensation to the maximum sum of Rs. 250. We do not say that the High Court shall in all cases award costs; but following the principle laid down in section 250 of the Code of Criminal Procedure we have provided that in a case of proved vexation, in a case of frivolous application, the High Court may exercise the power and that power we have curtailed by limiting the maximum amount. Now, the next point upon which my friends feel very sore is the question about several accused being jointly tried. My friends must remember the facts. The occasion for compulsory adjournment may arise in respect of a single accused as I have pointed out because the provocative act may occur from time to time as it may occur where there are more than one accused jointly tried before the same magistrate. If therefore we have given one chance to each accused and in a rioting case as the Honourable Members know we have sometimes 30 or 40 or 50 accused, we could not with strict logic prevent transfers on 30 or 40 occasions because there are so many accused; and that action would contravene the principle which you have accepted, namely, that there



must be a limit upon applications for adjournments. Therefore I submit we were constrained to place a curb upon the power of adjournment and we could not possibly, whether there was one accused or a number of accused, give accused unlimited power of obtaining compulsory adjournments. That is our vindication for the clause that we have enacted in the Select Committee.

The last point that has been urged with a certain amount of vehemence by Honourable Members is that the whole of this section is a reactionary section. Reaction is a comparative term. We have been dealing with this section for the last 30 or 40 years and I do not for one moment suggest that we have reached the rule of perfection in enacting the measure which we have done. I wish to emphasise once more that as the old sections were found unsatisfactory, experience may show that this section also is not satisfactory ; but then there will be time to alter it. Better counsels will prevail, but for the time being, and we are only speaking for the time being, from the experience gained in the past this is all that we can do and we can go no further. If you find that this section is abused, that it has loopholes, that the rights and privileges of the accused have been unduly curtailed, we will be the first to complain to this House and ask for the amendment of the existing law. We are not the Medes and the Persians whose laws change not. Day after day we have the spectacle of dozens of amending Bills and repealing Bills in which Honourable Members on both sides are busy improving and revising the law, and if Honourable Members after experience gained are satisfied that the provisions of this Act have led to practical abuses and have frustrated justice I am quite sure that they will come forward here with facts and figures which would be found irresistible.

**Mr. Lalchand Navalrai :** I hope that will be soon enough.

**Sir Hari Singh Gour :** I should be very glad indeed if my friend, Mr. Lalchand Navalrai, comes up with facts and figures and I shall be one of those who will be his humble henchmen in the progress of his Bill for amending or repealing this law. Before I sit down I must turn to my friends the Honourable Mr. James and Dr. DeSouza. The Honourable Mr. James says that let this be the beginning of a long series of acts for the purpose of amending the civil and criminal procedure. He is new to this House. I have been in this House ever since its birth and let me remind him in this connection that the late Sir Alexander Muddiman, the then Home Member, had taken the advice of a committee known as the Civil Justice Committee of which my friend Dr. DeSouza was so distinguished a member. That committee suggested wholesale revision of the Code of Civil Procedure and the Small Causes Courts Act and we had a plethora, shall I say an epidemic of Bills pouring into this House from the fruitful armoury of the Home Department ; every second day or third day we had Sir Alexander Muddiman dangling before our eyes a new Bill recommended by the Civil Justice Committee and it was my painful duty to make a study of all these Bills or rather bunches of those Bills, and I advised this House to turn them all down ; and the House agreed with me till the courage of Sir Alexander Muddiman failed him and he closed up his Civil Justice Committee's Report and said ' Let us give this up for good and all '. So much for the advice which my friend, Mr. James

[Sir Hari Singh Gour.]

has given this House. As for Dr. DeSouza, we know Dr. DeSouza. He has been for long a loyal servant of the Government and he adorns the benches by grace of the Government ; and I am not surprised that he takes that one sided view which the camel in the Arabian Nights took because he had only one eye and not two ; and therefore I shall not reply to him ; but I shall excuse him ; I have dealt with all the objections that have been raised, I think, against this Bill and I think the time has now come when we should get to business.

**An Honourable Member :** The question may now be put.

**Mr. B. R. Puri :** Sir, we practical lawyers know how difficult it is to build up your case. It is perhaps still more difficult to build up the case of your adversary, but God help the counsel who tries to build up the cases for both. That is a feat which is reserved for counsel of a very very rare ability. Within my own experience of 34 years I have not come across any. It is, to put in plain language, you can't please both the parties.

Sir, I have listened very carefully the speech delivered by my friend Sir Hari Singh Gour, and it reminds me—I hope he will not take the letter but the spirit—of the story that I am going to relate before the House. In an election petition a witness under stress of cross-examination had to admit that he had taken £25 as illegal gratification in order to give his vote for the liberal candidate, and it also transpired in the course of further cross-examination that he had accepted a similar amount from the opposite party in order to give his vote to the conservative candidate. The judge who was trying the case turned round to the witness and said, “ Well, my youngman, do you really mean that you took £25 from one party and another £25 also from the other party ? How do you reconcile your conduct, and in whose favour did you give the vote ? ”. “ My Lord.” He replied “ I gave the vote according to my conscience ”. (Laughter.) Now, Sir, we have heard the arguments of my Honourable friend Sir Hari Singh Gour, but may I ask him whether the Bill is good or bad according to his conscience for he has been trying to prove both.

In dealing with the main provisions of the Bill, one cannot conceal the fact, that the language of the existing Code is liable to abuse. There is no getting out of that fact. I go further and say that the language of the Bill was not only liable to abuse, but that in practice it had been abused. That being the case, as practical men, it is up to us to devise means either to put an end to that abuse in toto or at any rate to minimise or to reduce the amount of the mischief. When I looked at the original Bill, I found that while the previous section in the existing law had erred in one direction, the radical changes proposed in the new Bill erred in the opposite. Therefore, Sir, with the permission of the House, I placed what I believed to be a very reasonable proposition before the House, namely, that you should not restrict an accused person under your proposed law, asking an adjournment only before the actual commencement of the proceedings, because it would be a very hard provision indeed. Before the magistrate has said or done anything, it would hardly be fair to expect an accused person to stand up and say, ‘ I do not like the face of the magistrate and

therefore I must ask for a transfer'. In the course of the proceeding incidents may happen, which may necessitate the asking of an adjournment with a view to seek transfer. I therefore suggested that in the proposed Bill this right of obtaining an adjournment should be secured to an accused person, at any time, in the course of an inquiry or trial whenever it should appear to him that the magistrate is going wrong. But such right should be exercised only once. When I placed this suggestion before the House, I understood that it was generally agreed to and the Government also seemed to agree that it was a reasonable proposition, and promised to consider it sympathetically in the Select Committee, where it was finally agreed to and embodied in the Bill. In this way a substantial advantage to the accused was secured and chances of abuse were materially curtailed.

The second point I would like to mention is this. It has been urged in the House that it would hamper the privilege of an accused person if he is called upon, at the time of notifying to the Court that he is going to seek for the transfer, to execute a bond which prescribes a penalty of Rs. 200 in the event of the accused not following it up and not actually filing a petition. Having regard to the abuse to which the previous law was put, the safeguard proposed is a perfectly fair one. I, however, pointed out in the Select Committee, and I again want to mention it here for the information of the Honourable Members that there was one item in it which I believed might work hardship on an accused. I put before the Select Committee the case of an accused who comes from a village far away from the headquarters of the district, unaccompanied by any friend, to attend his case, and in the middle of the proceedings finds that the magistrate's tendency is to favour the opposite party. If he is then called upon to execute a bond with two sureties, you would be placing him in a very difficult position. He may or may not know anybody in the town, he may be a perfect stranger, no body may be willing to help him. Therefore, I urged that we should drop the condition regarding sureties and take from him a personal recognizance. That I believed would meet the requirements of the Government; and at the same time, it would cause no hardship to the accused. The suggestion I am glad to say was accepted by the Select Committee. Therefore, it comes to this that the man is merely

4 P.M. called upon to give an undertaking that in the event of his being proved to have had no intention of filing an application for transfer he would be penalised, and surely he can't complain that he has been harshly treated if he does not even file a transfer petition.

Similarly, the only way to prevent the mischief is, that in the case of applications which are frivolous or vexatious and are put in merely to obstruct the proceedings, the High Court should have power to penalise the party who tries to do so. That provision is a fair provision.

There remains only one other point, because it has been thrust upon me times out of number by my Honourable friend Mr. Lalchand Navalrai. I take this opportunity of dealing with that point. My learned friend has put a case where two persons were being tried together and one of them all of a sudden turned an approver in the

[Mr. B. R. Puri.]

case. If that man before he turns an approver has already applied for a transfer of the case and if he has already failed to secure transfer, what is the position of the other accused ? In the first place I cannot help reminding my Honourable friend that a case like that is no doubt conceivable ; but surely such cases do not happen every day, on the other hand cases of the other type—with a multiplicity of accused and each accused if given an opportunity to ask for an adjournment—one can very well imagine the mischief which would accrue if each and every accused one after the other is to exercise the right of holding up the proceedings.

**Mr. Lalchand Navalrai :** Is not that denying justice ?

**Mr. B. R. Puri :** Proceeding with the case which my learned friend has placed before the House, may I ask him to read section 337 of the Criminal Procedure Code once more ? In the first place, a person who is already on his trial as an accused cannot be at the same time an approver. If he is an accused person, then he has got the right to make any statement implicating the co-accused no doubt, and under section 30 of the Evidence Act, whatever that statement may be, that would be taken into consideration by the Court. It has not got the same weight and the same status as sworn testimony, but it can be taken into consideration. Whereas as an approver he has got the right to go into the witness box ; he is administered oath which an accused person cannot be ; he makes his statement from the witness box and he can be put to the test of cross-examination. Therefore, the two positions are not identical, and in one and the same case and at one and the same time the two positions cannot be merged in one individual. Let us follow this particular case a little further....

**Mr. Lalchand Navalrai :** Will the Honourable Member....

**Mr. B. R. Puri :** I am coming to that....

**Mr. Lalchand Navalrai :** You have not taken up the point which I want to draw your attention to....

**Mr. B. R. Puri :** I am trying to place before you all the aspects of it. (Laughter.) My Honourable and learned friend says....

**Mr. Lalchand Navalrai :** My point is this, that an accused in all these cases can be made an approver at any time.

**Mr. B. R. Puri :** Once the accused is made an approver he is no longer an accused person. That is what I am trying to make you understand. Anyhow, let me have my say. If I fail to convince you....

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : Order, order. The Honourable Member must address the Chair.

**Mr. B. R. Puri :** Pursuing this case, what I was endeavouring to point out was that it can happen where two persons are being jointly tried that one accused is discharged, and then cited as a witness against the other accused. That is a well known position with which every lawyer is familiar. But dealing with the case of an approver, my Honourable friend ought to know that under the existing law, once there is an approver in a case, the magistrate cannot dispose of that case

himself but is bound to commit it to the Court of Sessions. Therefore, the case would stand automatically transferred to a higher and a better Court. My Honourable and learned friend ought to have known this ; I will just read for his benefit section 337 (2A) which says :

“ In every case where a person has accepted a tender of pardon and has been examined under sub-section (8), the Magistrate before whom the proceedings are pending shall, if he is satisfied that there are reasonable grounds for believing that the accused is guilty of an offence, commit him for trial to the Court of Session or High Court, as the case may be.”

**Mr. Lalchand Navalrai :** That is at a later stage.

**Mr. B. R. Puri :** If transfer is the automatic result of somebody being converted into an approver, my Honourable and learned friend has gained his transfer. Let me meet the case where some evidence is actually recorded after that....

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : Is it necessary that the Honourable Member should go into such minute details on a motion for the third reading ? The Chair does not wish to stop the Honourable Member, but merely suggests that he need not go into such minute details.

**Sir Cowasi Jehangir** (Bombay City : Non-Muhammadan Urban) : On a point of enquiry, Sir. Is this the first reading or the third reading ?

**Mr. B. R. Puri :** For the benefit of my Honourable friend, it is the third reading ; and I have already been reminded by the Chair. There is just one little point left and that is this. If any evidence after the discharge of one accused person is recorded by the magistrate, my Honourable friend is apprehensive that in the process of recording that evidence some incalculable harm is likely to be done to the co-accused. I will try to meet that case. Any evidence in a case recorded by a magistrate—which case is later on to be committed to the Court of Session—is no evidence for the purpose of conviction or otherwise of the accused in the Court of Sessions.

**Mr. Lalchand Navalrai :** Section 288, Code of Criminal Procedure.

**Mr. B. R. Puri :** I know section 288. That evidence recorded by the magistrate is not substantive evidence in the case, and the guilt or innocence of the accused will not depend upon what has been recorded by the magistrate. Take the extreme case where the divergence and the discrepancy between the statement which the witness makes in the Court of Sessions and the statement which he has made in the committing magistrate's Court—if the conflict between the two is very great then the Sessions Judge has discretion to transfer the previous statement under section 288 to the Sessions file. In the first place, such a case will very rarely occur, and even if it does occur, for all practical purposes, no harm can possibly be done.

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : I oppose this Bill. I have not taken any opportunity to speak on this Bill before. So, I hope the House will bear with me when I give my reasons, both political and legal, why I oppose this Bill. I was patiently hearing the eloquent speech of my Honourable friend, Sir Hari Singh Gour, while he was advocating the cause of the Select Committee of which he was the Chairman. If he shows the same responsibility on all occasions, I have nothing to complain, but, I remember,

[Mr. S. C. Mitra.]

when the Bengal Criminal Law Amendment Bill was discussed in the House and the Honourable gentleman was also the Chairman of the Select Committee to which it was referred, unfortunately he was not found anywhere near the House. If we look to the genesis of this legislation, to me it looks like a piece of panicky legislation in these very difficult political times. I admit that the political situation is very difficult, but that is still more the reason why the Government should not have recourse to this kind of panicky legislation. This Bill, closely preceding the Ordinance Consolidation Bill, shows with what purpose Government are coming forward for such legislation. It is not a fact that this small Bill is an unimportant one. I find, the Bar Libraries throughout India have raised their cries against it. If the abuses by the parties for adjournment are frequent, the abuses of the magistracy are equally so, if not more. I admit that there may be a necessity to put some check on the abuses concerning the adjournments of cases, but I will presently tell you of circumstances where the vagaries of the magistrates were no less. The first question that arises in my mind is this. While this abuse has existed all these years, why have Government chosen this particular time to bring in this legislation? It is an elementary proposition in jurisprudence that an accused person must be presumed to be innocent till the Court has found him guilty, but anybody who will read this piece of legislation will find that from the very beginning there is an attempt to establish that the accused is a guilty person and it is presumed also that he will abuse his rights and privileges by petitioning every time for adjournment. I will ask the Law Member what provision he has made when, on a preliminary hearing, the High Court does not accept the prayer for transfer. I think there is no provision here when the Government Advocate also does not appear to contest it, because in a preliminary hearing it is only one side that makes the petition before the Court. I think there is no provision in this Bill to indicate whether the security will be forfeited if the petition is thrown out at the preliminary hearing by the High Court.....

**The Honourable Sir Brojendra Mitter :** The security will be forfeited if no application is made and no question of compensation will arise unless a successful party is before the Court.

**Mr. S. C. Mitra :** Then we can take it that at the preliminary hearing if the petition is thrown out the security will not be forfeited.

**The Honourable Sir Brojendra Mitter :** No.

**Mr. S. C. Mitra :** Compensation cannot be demanded?

**The Honourable Sir Brojendra Mitter :** There cannot be payment unless there is a payee and as there is no payee, there would not be any payment.

**Mr. S. C. Mitra :** Then there was another question raised from this side. If, after better legal advice, a party that was willing to move the High Court does not put forward the petition before the Court, what is

the remedy ? It has been replied from the Government side that if, on a better legal advice, he does not proceed with the original purpose of moving the High Court, he has no remedy, because he elected, in the first instance, for a certain course of action, he must suffer ; but in that case I ask Government what provision they make in similar cases when accused persons suffer enormously throughout India. What happens if a great leader or even ladies of very respectable families are arrested and put in police lock up for five or ten days and sometimes for months and, then, on the advice of the lawyers of Government, the case is not proceeded with ; do Government contemplate to pass any legislation for compensation for these people ? I know my friend Mr. Neogy the other day was referring to any number of political cases where gentlemen, educated young people, were kept in *hajai* for months together and then let off without any charge being framed against them. Mr. Neogy, I remember, was referring to a particular judgment where the learned District and Sessions Judge of Dacca passed very strong remarks and, so far as I know, that judgment has been handed over to the Honourable the Home Member ; so that there is abuse on the part of the executive and the police in putting men under arrest and keeping them in lock up not for days, but for months and then letting them off without any compensation. Where is the anxiety of the Government to provide any compensation for this unlawful detention ? I appeal to Government that they should not be panicky. A great Government cannot be maintained with little minds and with panicky legislation. I am afraid that the political pressure is almost unhinging the mind of the leaders on the Government side. That is the reason why there is a misapprehension in the public mind that it is not so much to remedy the abuses of the process of law as from a political motive that this vindictive legislation is forced on the people. In the Select Committee the point was raised, what usually happens in a conspiracy case, when a co-accused at the very beginning exhausts this one compulsory adjournment process. What is the remedy for other accused persons subsequent to this first move for adjournment ? Why should they suffer, because the opportunity, time and cause of action may arise subsequent to the first application for adjournment. I think that is a great defect in this legislation. There is a provision in section 344, Criminal Procedure Code, where the discretionary power is entirely with the magistrate, but I want some real power in the hands of the accused to get a remedy by moving the High Court, because it has been accepted even by Government that the executive and judicial functions being united in India, there is every chance of an abuse. Government also accept the general principle that there should be separation of the executive from judicial functions ; it is only on the question of finance that that policy has not been given effect to. As long as that policy is not applied here in India, namely, the policy of the judicial being rendered fully independent of the executive control, I appeal to the House to consider whether all these rights should not be interfered with. Sir, I oppose the whole Bill.

**Several Honourable Members :** I move that the question be now put.

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

“ That the question be now put.”

The motion was adopted.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : Mr. Haig.

**The Honourable Mr. H. G. Haig** : Sir, I do not wish to reply.

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

“ That the Bill, as amended, be passed.”

The motion was adopted.

### THE CRIMINAL LAW AMENDMENT BILL.

**The Honourable Mr. H. G. Haig** (Home Member) : Sir, I beg to move (Loud Applause) :

“ That the Bill to supplement the Criminal Law be referred to a Select Committee consisting of Mr. Muhammad Yamin Khan, Mr. S. C. Sen, Mr. Gaya Prasad Singh, Mr. S. G. Jog, Mr. B. B. Puri, Mr. S. C. Mitra, Mr. Muhammad Azhar Ali, Mr. B. V. Jadhav, Sir Leslie Hudson, Sir Muhammad Yakub, Mr. N. N. Anklesaria, Captain Rao Bahadur Chaudhri Lal Chand, Mr. C. W. Gwynne and the Mover, with instructions to report on or before the 7th November, 1932, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Sir, in making this motion and in inviting the House to approve the principle of the Bill to supplement the criminal law, I am well aware that I am asking Honourable Members to take a difficult responsibility on themselves. But, as I shall hope to explain in the course of my speech, the circumstances leave no other course open to Government. I am confident, Sir, that Honourable Members will give their fair consideration to the arguments which we, on this side of the House, hope to lay before them ; and that if we convince them, as I hope we shall, they will not hesitate to take the course which they believe to be right in the interests of the country. Now, Sir, the origin of the Bill is very plain. It can be stated in two or three words : “ the civil disobedience movement ”. It is unnecessary to give a history of that movement. I would merely recall, as His Excellency the Viceroy recalled in the address which he gave this House in opening this Session, that when Mr. Gandhi with other representatives of India was sitting in conference with the representatives of the British Parliament, engaged in a general endeavour to reach the greatest measure of agreement as the basis of the new constitution, two very dangerous movements were being organised in India by those who professed to be his followers. One of those movements, Sir, was in the United Provinces. It took the form of an appeal to a large and, on the whole an illiterate, peasantry to refuse the payment of Government dues and to refuse payment of the rent which they owed to their landlords. That was a most dangerous movement, Sir, at a time of great economic pressure, it was an invitation to the people to repudiate the whole economic basis of society. The other movement was proceeding in the North-West



Frontier Province and—as one would expect the conditions of that province—it took a different form. In that martial and inflammable area, the movement that was organised against Government took an open and semi-military form and there was a plain defiance of the authority of Government, a defiance which it would have been impossible for any Government to tolerate in any part of India and, least of all, on the North-West Frontier. The action taken against those movements by Government was met by a renewal of the civil disobedience movement throughout the country. In order to deal with that movement, it was necessary for the Governor General and the Government of India to take very wide powers by a series of Ordinances. Those Ordinances expired after six months. And as the period for their expiry approached, it became evident that we were in no position to discard the weapons with which the civil disobedience movement was being fought. Accordingly, at the end of June, the Governor General issued a new consolidated Ordinance. This, in its turn, will expire at the end of the year. Now, Sir, the problem is, what action Government are to take. The civil disobedience movement, though its manifestations have been much curtailed and though, I think, I can claim that its supporters have lost a good deal of the impetus with which the movement was started, is still in existence and no one can prophesy when it will come to an end. It certainly will not end so long as the leaders still feel that there is any prospect of gaining their objects. Now, Sir, what stands between them and success is mainly the power conferred by the Ordinance and, therefore, it is the view of the Government that the best method of ensuring a speedy end of this movement—a movement which has already caused much distress in the country and great economic loss—is to make it clear that the powers with which the movement is being fought will be continued. But when I say this, Sir, I would not have Honourable Members suppose that it is the desire of Government to attack or to crush the spirit of nationalism in India, a spirit which, to many minds, is the real attraction that lies behind the Congress movement. The Government, Sir, are not inspired by any hostility to that spirit. On the contrary, they are endeavouring, in spite of all these attacks on the one side and on the other, to bend their best energies to give it real practical expression in the new constitution. There are other methods open to the Congress, as there have been all along, for the expression of that spirit than those they have chosen to adopt, and I hope that the time will come when they will be converted from their belief in force which has led them into this mistaken path. But, Sir, that time is not yet and so long as this movement continues, we must have the powers with which we can counteract it. How, then, are these powers to be secured? There can surely be only one answer to that. No Honourable Member would suggest that they should be continued by the issue of a further Ordinance. Honourable Members, when the question of Government policy was under discussion in the House in February last, were very emphatic on this point and no one was more emphatic than my Honourable friend the Leader of the Nationalist Party who invited the Government, an invitation the acceptance of which, I must admit, has been somewhat delayed (Laughter), to place before the House their Bill and he added the assurance, which I take as a

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good augury to-day, that "they have only to place before the House their Bills and they will receive that co-operation and support which this side of the House has never stinted". Well, Sir, as I have explained, the present Ordinance comes to an end at the close of the year. The legislative time that remains before the House is short. We have arranged, as Honourable Members know, for a special session in November, one of the main objects of which is to enable the later stages of this Bill to be considered and I hope concluded by the House. In order to carry through that programme, it is necessary that the Select Committee which we are inviting the House to set up should meet and hold its deliberations in the interval between the two sessions; and the programme we have under contemplation at present is that the Select Committee should meet about the 20th or the 24th October.

Now, Sir, I am giving these details to the House because I see that it has been suggested, there are certain amendments down on the paper proposing, that the Bill should be circulated for opinion. I think Honourable Members will realise that no effective circulation could be concluded within the period allowed by our programme and I trust therefore that Honourable Members will bear that point in mind. On the merits of circulation, I think that probably both we on this side of the House and Honourable Members opposite can form a very shrewd idea of the kind of opinions we should receive. There is one other suggestion that has been made and I merely refer to it in order to convince the House that clearly there are no real alternatives other than those which I have already explained, namely, a further Ordinance or legislation. That suggestion, Sir, I owe, as I owe so much, to the Indian Press. I must, in spite of the suggestions that have been thrown out from time to time by my Honourable friend Mr. Neogy, assure the House that I am a very diligent reader of the Press.

**Mr. K. C. Neogy** (Dacca Division : Non-Muhammadan Rural) : I am very glad to hear that.

**The Honourable Mr. H. G. Haig** : And I derive from it not only information but instruction.

**Mr. K. C. Neogy** : Is it the *Statesman* ?

**The Honourable Mr. H. G. Haig** : Well, Sir, the Honourable Member will draw his own conclusions when he hears the suggestions which I read the other day in a very ably conducted paper. This is what was said :

"When a political emergency becomes a normal state of affairs, the time is definitely past for dealing with it either by executive decrees or by legislative enactments. The question, then, is one of ameliorative and conciliatory statesmanship".

I do not know if my Honourable friend thinks that that quotation came from the *Statesman*. It is a very fine and well rounded phrase. But, in my own blunter language, I should be inclined to interpret it as meaning capitulation to the demands of the Congress. If I may paraphrase the argument, it comes to this, that if an illegal movement continues for more than a certain period, the Government must give in to it. But, Sir, in this case, big issues are involved, issues that cannot be determined like a game of football at Annandale by the referee blowing the whistle for "time". We are not playing a game with artificial rules; the question is whether the Congress is going to impose its will on the whole country and dictate the constitution. On that issue, so far as the Government is concerned, there is no time limit.

Now, Sir, I come to the provisions of the Bill. The Bill is far from including all the provisions of the existing Ordinance. Our object has been to include in the Bill only those powers which a general review of the situation shows are required for the whole of India and to leave it to Local Governments to supplement these provisions by means of local legislation in order to meet local or emergent conditions. Following this principle, we have been able to omit from our Bill the most drastic powers contained in the Ordinance, and in particular sections 3 and 4 with which Honourable Members are no doubt very familiar, those sections which enable the Government to issue certain orders to individuals in regard to the way they should conduct themselves and to detain persons for a brief period without any definite charge. I must make it clear, however, that though we do not consider those powers will any longer be required at the end of the year for the whole of India, there are certain Local Governments in whose areas civil disobedience is still particularly active who will probably find it necessary to ask their legislatures for those powers. But broadly speaking, we have omitted from our Bill, Chapter II of the Ordinance which is headed 'Emergency Powers', Chapter IV dealing with special criminal courts and Chapter V which provides means of dealing with what are usually called no-rent campaigns. The latter we have to leave to Local Governments, not because we are convinced that in certain areas those powers will not be required, but because they appear to us primarily to affect local interests and local conditions. Now, Sir, I have explained the powers which are not included in the Bill. I come now to those provisions, which are included, and these may be roughly grouped under three headings, first provisions against certain forms of intimidation, primarily picketing and boycott, the second, additional provisions against unlawful associations and the third, provisions to secure greater control over the Press. Under the first heading, the most important provisions are those directed against molestation, which is popularly known as picketing. Picketing, Sir, involves, in our opinion, grave interference with the liberty of individuals. It forms, and it has formed from the beginning, an important part of the Congress programme. It is not a question of whether a particular movement in support of which picketing is employed is in itself legitimate. Our point is that the method of picketing is an inadmissible method. I know it is sometimes argued that if a man desires to promote the industries of his own country or more probably injure those of another country, it is legitimate and even laudable for him to coerce his fellow-citizens into agreement with him.

**Sardar Sant Singh** (West Punjab : Sikh) : In case Government do not come to help.

**The Honourable Mr. H. G. Haig** : That, Sir, is a very grave invasion of public liberty and the public must be protected against this form of tyranny.

**Mr. Gaya Prasad Singh** (Muzaffarpur *cum* Champaran : Non-Muhammadan) : British goods also must be protected.

**The Honourable Mr. H. G. Haig** : I would ask the House to allow me to read out a brief passage from the statement issued by Lord Irwin when he enacted the first Ordinance against picketing. He said :

"What is not legitimate is for those who desire these ends, proper as they are in themselves "

he was referring to the promotion of indigenous industries :

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“ to pursue them by means amounting in effect to intimidation of individuals, and to endeavour to force their views on others not by argument, but by the coercive effect of fear. When resort is had to such methods, it becomes necessary for Government to protect the natural freedom of action of those who may wish to sell and those who may wish to buy.”

**Mr. K. C. Neogy :** Including the vegetable sellers at Midnapur ?

**The Honourable Mr. H. G. Haig :** That, Sir, as I have already explained, was an order passed under section 4 which has been omitted from the Bill. Then, Sir, there is the question of protecting public servants from boycott, and here also I would ask leave of the House to read out an extract from a similar statement made when Lord Irwin's Government issued the first Ordinance dealing with boycott. He said :

“ unscrupulous efforts are also being made by the organisers of the civil disobedience movement to bring pressure to bear on Government servants to resign their posts or fail in their duty. The methods employed include not only various forms of molestation and intimidation but also definite attempts to use the weapon of boycott against Government servants. Thus, it is found that in different parts of the country not only are the residences of Government servants picketed and they themselves and their relatives subjected to threats of injury to life or property, but organised attempts are made to refuse them necessary supplies ” (*I hope my Honourable friend Mr. Neogy will note that point*) “ the use of transport and the tenancy of houses. These methods have reached their maximum intensity in Gujerat, but they are also being practised in other parts of the country.”

The second category of powers deal with unlawful associations. The existing Criminal Law Amendment Act gives power to declare certain associations unlawful, whereupon those who direct them or are members of those associations become liable to prosecution. The additional powers which we propose and which have been found in the last two years most effective in dealing with the civil disobedience movement are powers to take possession of places used for the purpose of an unlawful association and powers to forfeit the property of such an association. These powers have been found particularly valuable in the Bombay Presidency where at one time the Congress organisation in its Congress House in the heart of Bombay city was really setting itself up openly to challenge the authority of Government and declaring itself a rival power.

Finally, Sir, there are the provisions for the control over the Press. Here I come, as I realise, to difficult ground. There is a long history in this country of measures enacted by Government to control the Press. As Honourable Members are aware, a Press Act was passed in 1910 and remained in force for 12 years. It was repealed in 1922. For eight years the Press remained free of all control. In 1930 Lord Irwin's Government resumed those powers by an Ordinance. When the Ordinance expired the powers lapsed for a month or two, but it was found almost immediately necessary to re-impose them by a further Ordinance. The powers lapsed again on the conclusion of the first civil disobedience movement, but were re-imposed on the outbreak of the second civil disobedience movement and are still in force. It was held by the committee which sat in 1921, on whose advice the Press Act was repealed, that the provisions had been ineffective. One would like to believe that they held that view because in fact the operation of the Act had been imperceptible ; but bitter experience disproved their judgment and the optimism which underlay it. Conditions so far as the Press was concerned deteriorated continuously from 1922 to 1930, and once more I would ask the indulgence of the House to read the statement issued by Lord Irwin when he enacted the Press Ordinance in

to have been the course of events between the repeal of the Press Act in 1922 and 1930. He said :

"On various occasions since 1922 the evil effects of writings in the Indian press in promoting a spirit of revolution and stirring up extreme hatred of the Government established by law in British India have been brought prominently to notice by certain Local Governments. It has been recognised that the anticipations formed in 1922 have not been fulfilled, but that on the contrary the tone of a certain section of the press has been growing almost steadily worse with its immunity from effective control. The measure of the effectiveness of the Press Act has been shown very clearly by the remarkable accentuation since its repeal of those features which it was intended to check. Prosecutions are from time to time instituted in the worst cases, but it has always been recognised that these provide only a partial remedy, and looked at broadly, are ineffective to control the ceaseless output of extreme seditious and revolutionary propaganda."

And further he said :

"The spirit of revolution fostered by the civil disobedience movement is beginning to emerge in dangerous forms. Nothing at the present moment is operating so powerfully to promote that spirit as the writings in the press, many inciting openly to violent and revolutionary action, others by consistent laudation of the civil disobedience movement encouraging a spirit of lawlessness throughout the country."

I recognise, Sir, and the Government fully recognise, that the provisions which it has been necessary to impose giving Government control over the Press are irksome to responsible editors, and there are many such. I am well aware, Sir, of the difficulties that well conducted papers may feel. I was present in 1930 when Lord Irwin received a deputation of distinguished editors of Indian papers to make a representation about the working of the Press Ordinance. But, Sir, looking at the matter broadly I do not think that an impartial visitor to these shores at this moment would regard the Press in this country as being unduly restricted or finding much difficulty in saying very plainly what it thinks of the Government.

**Mr. B. Das** (Orissa Division : Non-Muhammadan) : In spite of the Press Act ?

**The Honourable Mr. H. G. Haig** : In spite of the Press Act. But criticisms though trenchant and frank are now normally kept within reasonable bounds and that is, as I see it, the actual operation of the Press Ordinance.

Now, Sir, I pass to another point. It will not have escaped notice that we have not placed a time limit on this Bill. Experience of the past has shown that it is not difficult to start or to revive the kind of movement that we are now experiencing. Anyone who is familiar with the history of India for the last 10 or 15 years will, I think, accept that statement. While I should be sorry to believe that we had reached a normal state of affairs in which these powers are always required, we have to remember that we are passing through a difficult period of transition, and that it is not sufficient that the powers should be in existence merely until the civil disobedience movement ceases, but that they should be available,—without the odium that naturally attaches to the issue of an Ordinance,—in case that movement or a similar movement is revived. When the civil disobedience movement ceases the ideas may be dormant but they will not be dead. We are disposed to think, therefore, that these powers should be secured not only for the existing official Governments during the comparatively brief period that lies before them but that the new governments should at any rate start in possession of

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[Mr. H. G. Haig.]

those powers. It will then be open to them to discard them or to leave them unused if they feel that they can safely do so ; and in this connection I would emphasise that we have provided in the Bill that certain powers, particularly those dealing with molestation and boycott, should not come into force except by a notification of the Local Government ; they are not in force automatically ; they are only there to be used if they are required. I am well aware that different views may be held about the proper duration of an Act such as this. But I would impress very earnestly on the House that we are engaged in the very delicate and difficult operation of handing over power in this vast country from one set of hands to another. I am not aware that as a deliberate policy an attempt on such a scale has ever been made before in the history of the world. That operation is bound, according to my reading of history, to set up conditions that have proved to be the most favourable occasions for revolution. It is when the system of government that has been in force for many years begins to reform itself or to transfer its powers to others, that the forces of revolution tend to gather strength. I think that is a fair reading of those tremendous upheavals known as the French Revolution and the Russian Revolution. At such times the minds of men become disturbed, and unless the Government is reasonably strong and can retain control of the situation, the whisper of change is the signal for a sudden uprush of all the discontented elements. We need at such a time to have the authority of Government unquestioned, if we are to avoid the danger of an upheaval in which property and parliaments alike may disappear. We have in India a triple threat to peaceful progress,—civil disobedience, communism and terrorism ; and though the main provisions of this Bill are directed against the first of these, I hope the House will not forget that the provisions relating to the Press will exercise a strong controlling influence over the movements of communism and terrorism. Discontented elements will always tend to coalesce. Though on the surface these three are very different movements, behind the scenes there are certain contacts. Terrorism threatens Government by open force. The other two, civil disobedience and communism, are more subtle in their methods, but possibly even more disastrous in their results, for their object is to destroy the whole basis of respect for authority and the traditional institutions on which society is founded. Thomas Carlyle, the historian of the French Revolution, spoke of our whole being as an infinite abyss over-arched by habit. That image seems to me to be vividly true in the conditions of India, where a crust has been formed—and at times we seem to see in a flash how thin that crust is—a crust has been formed over a great abyss by the labours of many generations which have found expression in the instinctive beliefs and habits of the people. Let us beware, Sir, lest the crust give way and we find ourselves precipitated into the abyss. (Cheers.)

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

“ That the Bill to supplement the Criminal Law be referred to a Select Committee consisting of Mr. Muhammad Yamin Khan, Mr. S. C. Sen, Mr. Gaya Prasad Singh, Mr. S. G. Jog, Mr. B. R. Puri, Mr. S. C. Mitra, Mr. Muhammad Ashar Ali, Mr. B. V. Jadhav, Sir Leslie Hudson, Sir Muhammad Yakub, Mr. N. N. Anklesaria, Captain Rao Bahadur Chaudhri Lal Chand, Mr. C. W. Gwynne and the Mover, with instructions to report on or before the 7th November, 1932, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

The Assembly then adjourned till Eleven of the Clock on Thursday, the 22nd September, 1932.