

LEGISLATIVE ASSEMBLY DEBATES

WEDNESDAY, 14th DECEMBER, 1932

Vol. VII—No. 10

OFFICIAL REPORT



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LEGISLATIVE ASSEMBLY.

Wednesday, 14th December, 1932.

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

QUESTIONS AND ANSWERS.

COMBINATION OF CERTAIN COMPANIES DEALING IN PETROL.

1664. ***Mr. S. C. Mitra** (on behalf of Sardar Sant Singh): Are Government aware that Burma Shell is a combination of the Burma Oil Co., and the Asiatic Petroleum Co., who represent the Royal Dutch or Shell Group and are drawing all their supplies of kerosene oil from Burma? If so, is it a fact that the difference in duty and excise is one anna per gallon? Are Government aware that they are losing in customs one anna per gallon in all business which should have been Asiatic Petroleum Company's?

The Honourable Sir George Schuster: The Government are aware that the Burma Shell Oil Storage and Distributing Company of India took over the marketing organisations in India of the Burma Oil Company, and the Asiatic Petroleum Company (India), which latter had previously been the marketing organisation of the Royal Dutch-Shell Group; but they have no information on the question whether the Burma Shell Company is drawing all its supplies of kerosene oil from Burma.

I do not follow the purport of the Honourable Member's other questions. It is only natural that India's consumption of kerosene should be largely met from supplies produced in India and which therefore have only paid the excise duty. I do not see how this can be described as a loss, nor how the agency, through which the kerosene is sold, affects the position.

The difference between the rate of excise duty and that of customs duty on kerosene is 11½ pies, not 1 anna.

PRICES OF KEROSENE AND PETROL.

1665. ***Mr. S. C. Mitra** (on behalf of Sardar Sant Singh): Are Government aware that the prices of kerosene and petrol have been brought down only in such places where new Indian companies (National Petroleum Co., and the Western India Oil Distributing Co.) have placed their products in the market? Are Government also aware that the prices in other places have in certain cases gone up?

The Honourable Sir Joseph Bore: The Government of India are not in possession of complete information on the subject.

PRICE OF PETROL IN INDIA.

1666. ***Mr. S. C. Mitra** (on behalf of Sardar Sant Singh): Is it a fact that the price of petrol was raised by six pies by all petrol companies 15 days before the arrival of the Western India Oil Distributing Co.'s first consignment? Do Government propose to inquire into the causes that led to the raising of the prices throughout India and will Government lay the result of their investigation on the table of this House?

The Honourable Sir Joseph Bhoré: The answer to the first part of the question is in the affirmative. As regards the second part, the reply is in the negative.

ANNUAL DIVIDEND DECLARED BY CERTAIN OIL COMPANIES.

1667. ***Mr. S. C. Mitra** (on behalf of Sardar Sant Singh): Are Government aware of the annual dividend declared by the Burma Oil Co., Standard Oil Co., Shell Group and the I. B. P. during the years 1929, 1930 and 1931? If so, will Government kindly state the same?

The Honourable Sir Joseph Bhoré: I lay on the table a statement showing the information asked for by the Honourable Member so far as it is available.

Statement showing the dividend declared by certain Oil Companies during the years 1929, 1930 and 1931.

Name of Company.	Year.	Dividend.
Burma Oil Co., Ltd.	1929	30%
	1930	22½%
	1931	17½%
Standard Oil Co. (New Jersey)	1929	7½%
	1930	8%
	1931	Not available.
Royal Dutch	1929	24%
	1930	17%
	1931	6%
I. P. B.		Not available.

COMBINATION OF CERTAIN COMPANIES DEALING IN PETROL.

1668. ***Mr. S. C. Mitra** (on behalf of Sardar Sant Singh): Have Government commenced investigation into the question whether the oil companies have a combine or not as promised by them in reply to my starred question No. 159 of the 8th September, 1932? If so, when is the inquiry likely to be completed?

The Honourable Sir Joseph Bhoré: Yes; an inquiry is being made but it is not possible to state by what date it will be completed.

PRICE OF PETROL IN INDIA.

1669. ***Mr. S. C. Mitra** (on behalf of Sardar Sant Singh): (a) Are Government aware that Russian petrol arrives *c. i. f.* in Indian ports at 0-2-9 per gallon, and the duty being 0-10-0 per gallon, the cost price would be 0-12-9 per gallon? Do Government propose to make inquiries if it is so?

(b) If the result of the inquiry confirms the above price, are Government prepared to take measures to control the price of petrol at about Rs. 1-2-0 per gallon at the main ports leaving a substantial margin of profits for the company, besides dealers' commission?

(c) Are Government prepared to control the price of kerosene on the same basis as above in order to relieve the poor consumer?

The Honourable Sir Joseph Bhoré: (a) The Government of India understand that the price of Russian petrol in Indian ports is said to be 2 annas 9 pies per gallon *c. i. f.* They have no definite information in the matter and do not consider that it would be possible to verify by enquiry whether this is an economic price.

(b) and (c). No.

RAILWAY MAIL SERVICE DIVISIONS OF THE POSTS AND TELEGRAPHS DEPARTMENT.

1670. ***Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon): (a) Will Government be pleased to state how many Divisions there are in the Railway Mail Service branch in the Posts and Telegraphs Department?

(b) Is it a fact that the gradation list of the Railway Mail Service is entirely separate from the Post Office and promotions, etc., are made in each branch separately?

(c) Is it a fact that all the Railway Mail Service Divisions in India are in the charge of Non-Muslim Superintendents, almost all of whom are Hindus?

(d) If so, are Government prepared to issue immediate orders to the effect that at least one Railway Mail Service Division in each Circle should be placed in charge of a Muslim Superintendent?

The Honourable Sir Frank Noyce: (a) 15.

(b) Yes; but the Gradation List does not include the posts of Superintendents of the Railway Mail Service who are on the same list as Superintendents of the Post Office.

(c) Yes.

(d) Government are not prepared to take the action suggested since as has been frequently pointed out such postings are not made solely on communal considerations.

POSTING OF MUSLIM SUPERINTENDENTS TO CERTAIN RAILWAY MAIL SERVICE DIVISIONS.

1671. ***Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon): (a) Is it a fact that the Railway Mail Service "A" and "D" Divisions have always had Hindu Superintendents and that the Muslims have been asking that they should have a Muslim Superintendent? Similarly, are Government aware that the "J" Division had a Hindu Superintendent for years together?

(b) Are Government prepared to post Muslim Superintendents to these Divisions immediately?

The Honourable Sir Frank Noyce: (a) As regards the first part of the question, the facts are not as stated by the Honourable Member nor are Government able to trace any representations from Muslims on the subject.

As regards the second part, during the last 11 years the 'J' Division has been in charge of Hindu Superintendents for six years and of a Muslim Superintendent for five years. It is now in charge of an Anglo-Indian.

(b) No, since as has been frequently explained such postings are not made solely on a communal basis.

APPOINTMENT OF A MUSLIM AS ASSISTANT DIRECTOR IN THE SIND AND BALUCHISTAN POSTAL CIRCLE.

1672. ***Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon):

(a) Is it a fact that the Director and the Assistant Director as also the only two first class Postmasters with the Assistants in the Sind and Baluchistan Circle are all Hindus?

(b) Are Government aware that this has caused great apprehension in the minds of the Muslim subordinates and there is great unrest?

(c) Are Government aware that as matters stand at present there is no chance of a Muslim ever becoming a Director in the Sind and Baluchistan Circle?

(d) If so, are Government prepared to direct that the Assistant Director in Sind and Baluchistan Circle should always be a Muslim?

The Honourable Sir Frank Noyce: (a) Yes.

(b) Government have received some representations on the subject.

(c) No; though it is unlikely for some time yet.

(d) No. I would remind the Honourable Member that such postings are not made solely on communal considerations.

POLICY IN REGARD TO THE APPOINTMENT OF THE MEMBERS OF VARIOUS COMMUNITIES TO THE SUBORDINATE ACCOUNTS SERVICE.

1673. ***Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon):

(a) Will Government be pleased to state their policy in regard to the appointment of the members of the various communities to the Subordinate Accounts Service in the different Accounts and Audit Offices in India with reference to the orders issued in Government of India, Home Department, Memo. No. F.-176/25-Est., dated the 5th February, 1926, regarding the recruitment of members of minority communities?

(b) Is it a fact that in some of the Accounts and Audit Offices in India, clerks belonging to majority communities, some of whom even failed to pass the Subordinate Accounts Service examination previously, have been appointed against permanent vacancies accruing after the issue of the Home Department Memo. of 1926, when passed candidates from minority communities were available?

The Honourable Sir George Schuster: With your permission, Sir, I will deal with questions Nos. 1673 to 1678 together.

Enquiry is being made and complete replies will be laid on the table in due course.

MUSLIM SUPERINTENDENTS IN THE SUBORDINATE ACCOUNTS SERVICE.

†1674. ***Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon):
(a) Is it a fact that either there are no Muslim Subordinate Accounts Service passed Superintendents in most of the Accounts Offices in India or the number of such Superintendents in one or two offices is considerably very small as compared with the total number of sanctioned posts in the offices concerned?

(b) If so, will Government be pleased to state how the vacancies occurring in the cadre of the said service in the various Accounts and Audit Offices in India, since the issue of the orders of the Government of India mentioned in the preceding question, were filled in and also what steps, if any, were taken to appoint Muslims to the vacancies reserved for them in pursuance of the said orders?

(c) What action do the Government of India propose to take to remedy the grave omissions in the past, if any?

DEPARTMENTAL PROMOTIONS TO THE SUBORDINATE ACCOUNTS SERVICE.

†1675. ***Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon):
Are Government aware that appointment to the Subordinate Accounts Service has been declared by the Auditor General to be departmental promotion for the purposes of the orders of the Government of India regarding recruitment of minority communities, and that this has affected adversely the members of the minority communities who have passed the Subordinate Accounts Service examination inasmuch as they are, in consequence of the said decision of the Auditor General, deprived of the preferential treatment allowed by the orders of the Government of India mentioned above?

APPOINTMENTS TO THE POSTS OF DIVISIONAL ACCOUNTANTS.

†1676. ***Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon):
(a) Are Government aware that appointment to the posts of Divisional Accountants (who are also under the control of the Provincial Accountants General) was previously considered as departmental promotion for purposes of the minority community rules, but the Auditor General decided in the year 1930 that the said appointments should not be so considered and that the orders of the Government of India regarding the protection of the interests of minority communities should be observed separately in respect of that cadre?

(b) Will Government kindly state what justification there is for the differential treatment in the case of the Subordinate Accounts Service and the Divisional Accountants cadres so far as the application of minority community rules is concerned?

†For answer to this question, see answer to question No. 1673.

(c) Are the Government of India prepared to direct that appointments to the Subordinate Accounts Service should not be treated as departmental promotions for purposes of the minority community rules?

(d) If not, are Government prepared to issue orders to remain in force for such time as the communal inequalities in respect of the Subordinate Accounts Service in the different Accounts and Audit Offices are not redressed?

DEARTH OF MUSLIM CLERKS IN THE ESTABLISHMENT SECTIONS OF THE ACCOUNTS AND AUDIT OFFICES IN INDIA.

†1677. *Mr. S. C. Mitra (on behalf of Seth Haji Abdoola Haroon):

(a) Is it a fact that there is a dearth of Muhammadan clerks in the establishment sections of the Accounts and Audit Offices in India?

(b) Is it a fact that no Muhammadan has ever been allowed an advanced increment in any Accountant General's Office in India? If so, why?

FILLING UP OF VACANCIES IN THE CLERICAL ESTABLISHMENT IN THE OFFICE OF THE ACCOUNTANT GENERAL, UNITED PROVINCES.

†1678. *Mr. S. C. Mitra (on behalf of Seth Haji Abdoola Haroon):

How is it proposed to fill up the vacancies in the clerical establishment of the Accountant General's Office, United Provinces, reserved for the members of the minority communities? Are not the members of these communities available from the men retrenched as a result of the amalgamation of Accounts and Audit?

DEALINGS OF PATHAN MONEY-LENDERS WITH THEIR DEBTORS EMPLOYED IN THE IMPERIAL SECRETARIAT.

1679. *Mr. B. N. Misra: (a) Are Government aware that dealings of Pathan money-lenders with their debtors employed in the offices of the Imperial Secretariat and residing in Government buildings in New Delhi are very objectionable, inasmuch as these Pathans enter such debtors' residences by force, quarrel and molest them on their way to office and back, as also stop debtors in front of the Secretariat building where they wait looking for their debtors?

(b) Is it also a fact that several representations to be protected from harassment of the said nature have been made to the Superintendent of Police by the debtors concerned?

(c) Will Government please state in how many cases inquiries have been made and how many such Pathans have been stopped while entering Government buildings and remaining there or punished and how? If not, why not?

The Honourable Mr. H. G. Haig: I have made enquiries from the Delhi Administration and will lay the reply on the table in due course.

APPOINTMENT OF A MUSLIM AS SUPERINTENDENT OF THE OFFICE OF THE POSTMASTER GENERAL, PUNJAB AND NORTH-WEST FRONTIER CIRCLE.

1680. *Mr. S. C. Mitra (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that the appointment of Superintendent of the office of the

†For answer to this question, see answer to question No. 1673.

Postmaster General, Punjab and North-West Frontier Circle, has been held exclusively by Hindus for the last 25 years and, according to the existing procedure for promotion, there is no likelihood of this post being held by a Moslem for a long time to come?

(b) If the reply to part (a) above be in the affirmative, will Government be pleased to state what action, if any, they propose to take to appoint a member of the Muslim community in this post?

The Honourable Sir Frank Noyce: (a) and (b). The Honourable Member is referred to the reply given to parts (d) and (f) of Mr. Shaikh Fazal Haq Piracha's starred question No. 515 in this House on the 17th February, 1931.

APPOINTMENT OF MUSLIMS AS HEAD CLERKS IN THE OFFICE OF THE POSTMASTER GENERAL, PUNJAB AND NORTH-WEST FRONTIER CIRCLE.

1681. ***Mr. S. O. Mitra** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that 12 out of the 13 appointments of Head Clerks in the office of the Postmaster General, Punjab and North-West Frontier Circle, are held by non-Muslims of one community?

(b) Are Government aware that according to the seniority list there is absolutely no chance for a Muslim of the office of Postmaster General, Punjab and North-West Frontier Circle being promoted as Head Clerk of the same office?

(c) Is it a fact that many officials belonging to the Circle were imported to the said circle office? Is it also a fact that many officials were transferred from the said circle office to the circle?

(d) Are Government prepared to order that the selection grade appointments in the Circle and Circle Offices be made interchangeable instead of leaving the matter to the will of the Circle officers in order to remove communal inequalities?

The Honourable Sir Frank Noyce: (a) The Honourable Member is referred to the reply given to part (a) of Shaikh Sadiq Hasan's starred question No. 883 in this House on the 7th November.

(b) and (d). The Honourable Member is referred to the replies given to parts (c) and (d) of his starred question No. 1448 in this House on the 28th of last month.

(c) Government have no information.

APPOINTMENT OF MEMBERS OF DIFFERENT COMMUNITIES AS SUPERINTENDENTS OF POST OFFICES AND THEIR HEAD CLERKS IN THE PUNJAB POSTAL CIRCLE.

1682. ***Mr. S. O. Mitra** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that the Postmaster General, Punjab, has issued a standing order to the effect that in the Divisions, Superintendents of Post Offices and their Head Clerks should belong to different communities?

(b) If the reply to part (a) above be in the affirmative, will Government be pleased to state the reasons for which the above procedure is not followed in the Punjab and North-West Frontier Circle? Is it a fact that the Superintendent and the appointment clerk in the said Circle are both of one community for the last several years?

(c) Is it a fact that the appointment clerk in the circle office is directly responsible to the Office Superintendent and not to the Head Clerk of the branch?

(d) If the reply to part (c) above be in the affirmative, are Government prepared to order that the appointment clerk and the Office Superintendent should not be of the same community?

Mr. T. Ryan: (a) to (d). Government have no information. The matter is within the competence of the Postmaster General, Punjab and North-West Frontier Circle to whom a copy of the question is being sent for such action as he may consider necessary. As has already been explained to the Honourable Member, the term 'appointment clerk' is a misnomer, and will be suitably altered.

LEAKAGE OF IMPORTANT INFORMATION FROM THE PUNJAB AND NORTH-WEST FRONTIER POSTAL CIRCLE OFFICE.

1683. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that due to leakage of important information from the Punjab and North-West Frontier Circle Office, the Postmaster General had to issue warnings on several occasions?

(b) Is it a fact that quite recently a clerk of the said Circle Office was caught red-handed while intercepting the official document and the case is under investigation?

Mr. T. Ryan: (a) and (b). Government have no information. The matter is within the competence of the Postmaster General.

RAILWAY MAIL SERVICE DIVISIONS IN THE PUNJAB AND NORTH-WEST FRONTIER POSTAL CIRCLE.

1684. ***Mr. S. O. Mitra** (on behalf of Mr. M. Maswood Ahmad): Is it a fact that the charge of both Railway Mail Service Divisions in the Punjab and North-West Frontier Circle is held by non-Muslim Superintendents?

The Honourable Sir Frank Noyce: Yes.

ORDERLY PEONS OF THE SUPERINTENDENTS OF POST OFFICES IN THE PUNJAB AND NORTH-WEST FRONTIER POSTAL CIRCLE.

1685. ***Mr. S. O. Mitra** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that according to the Punjab Postmaster General's Orders the orderly peons of the Superintendents should be permanent employees and that they should remain where they are employed after the transfer of the Superintendent?

(b) Is it a fact that the Superintendents of Post Offices are forbidden to appoint their private servants as orderly peons and to take them from Division to Division on their transfers?

(c) Is it a fact that this order was violated by the late Superintendent of Post Offices, Ludhiana Division, Punjab on more than one occasion?

Mr. T. Ryan: (a) Yes, according to the Director General's orders.

(b) Yes.

(c) Government have no information. A copy of the question is being sent to the Postmaster General, Punjab and North-West Frontier, for such action as he may consider necessary.

RETRENCHMENT IN THE PUNJAB POSTAL CIRCLE.

1686. *Mr. S. C. Mitra (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that the Government of India issued instructions to the effect that, while retrenching the staff, due regard should be given to the fact that the ratio of each community as it stood prior to reduction is maintained?

(b) Is it a fact that the ratio of Muslims and non-Muslims before and after retrenchment in the Punjab Postal Circle in the grades of Rs. 250—850 and 160—250, as given below is correct? If not, will Government supply correct figures?

Grade, Rs. 250—350.

	Hindus.	Muslims.	Sikhs.	Christians.
Prior to reduction (percentage)	4 (28.6%)	5 (35.7%)	3 (21.4%)	2 (14.3%)
After reduction	7 (46.6%)	4 (26.6%)	1 (6.6%)	3 (20%)

Grade, Rs. 160—250.

	Hindus.	Muslims.	Sikhs.	Christians.
Prior to reduction (percentage)	131 (62%)	60 (28%)	14 (7%)	6 (3%)
After reduction	139 (66%)	52 (24%)	13 (7%)	6 (3%)

(c) If the reply to part (b) above be in the affirmative, will Government be pleased to state the reasons for infringing the Government's Orders on the subject, and the action they propose to take to redress the grievances of the communities affected?

The Honourable Sir Frank Noyce: (a) The Honourable Member is referred to the reply given to part (a) of Shaikh Fazal Haq Piracha's starred question No. 1066 in this House on the 9th November, 1932.

(b) and (c). Government are not in a position to check these figures; but even if the position as regards communal ratios in these two clerical selection grades is as stated by the Honourable Member, this would not necessarily mean that the orders of Government referred to in part (a) of the question have been infringed, since, for the purposes of retrenchment, the selection and non-selection grades in the postal clerical cadre are being taken together. There has actually been no decline in the ratio of Muslims in the postal clerical cadre as a whole, as a result of retrenchments, as already explained in reply to part (c) of Shaikh Fazal Haq Piracha's question just referred to.

RETRENCHMENT IN THE PUNJAB POSTAL CIRCLE.

1687. *Mr. S. C. Mitra (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that out of 46 selection grade officials retrenched in the Punjab Postal Circle, as many as 23 officials (twenty Hindus and three Muslims) were already on extension of service?

(b) Is it a fact that out of the remaining 23 retrenched officials, who were not yet superannuated, as many as sixteen Muslims and seven non-Muslims have been retrenched?

(c) If the reply to parts (a) and (b) above be in the affirmative, will Government be pleased to state what action they propose to take to right the wrong done to the Muslims?

The Honourable Sir Frank Noyce: (a) and (b). Enquiries are being made and a reply will be laid on the table of the House in due course.

(c) None, the retrenchment rules have been impartially applied and no community has been 'wronged' in the process. In this connection the Honourable Member's attention is invited to the reply which I have just given to his question No. 1686.

MEMBERS OF THE DELHI ROYAL FAMILY IN INDIA.

1688. ***Mr. S. C. Mitra** (on behalf of Mr. M. Maswood Ahmad): (a) Will Government please state the number of the members of the Delhi royal family in this country and also the districts in which they live?

(b) What is the number of those who are drawing pensions or charitable allowances?

(c) Have Government made any arrangement for their education?

(d) Have they ever been represented by a nominated or elected representative in the Legislative Assembly?

Mr. H. A. F. Metcalfe: With your permission, Sir, I propose to answer questions Nos. 1688 and 1689 together. The information is being collected and will be laid on the table in due course.

MEMORIAL OF ANJUMAN KHANDAN-I-JEHANDAR SHAH, BENARES, TO THE GOVERNMENT OF INDIA.

†1689. ***Mr. S. C. Mitra** (on behalf of Mr. M. Maswood Ahmad): (a) Have the Anjuman Khandan-i-Jehandar Shah, Benares, forwarded any memorial or resolutions to the Government of India?

(b) What action, if any, did Government take?

(c) What are their demands? How far are Government prepared to meet them?

SHRADHANAND MODEL BASTI FOR DEPRESSED CLASSES IN PAHARGANJ, DELHI.

1690. ***Esao Bahadur M. C. Rajah:** (a) Are Government aware:

- (i) that there is a locality called the Shradhanand Model Basti for the Depressed Classes in Paharganj, Delhi;
- (ii) that this place has been set apart by the Chief Commissioner, Delhi, for the Depressed Classes;
- (iii) that this area belongs to the Nazul Department;
- (iv) that there are no street lights, water taps and other sanitary arrangements in this locality and the Depressed Class inhabitants of the locality who have been living there since 1929, find it extremely difficult to get water even for drinking purposes;

†For answer to this question, see answer to question No. 1688.

- (v) that for want of drains the water flowing from the houses, as also rain water, collects in low surfaces of the locality and the health of the inhabitants is always threatened by malaria which may spread there at any time and also spread to the adjoining localities;
- (vi) that in spite of the repeated requests of the inhabitants who have also shown the dirty condition of the locality to the Health Officer, Delhi Municipality, no action has so far been taken to redress the grievances of the inhabitants, and even now night soil of the adjoining localities is dumped around the houses of this locality and, on account of this, the houses are always full of bad smell and the entire atmosphere remains unhealthy;
- (vii) that the Municipal Committee do not take any pains in this connection because they consider the land a charge of the Nazul Department and the Nazul Department ignores it because it does not think itself responsible for the health of the residents?

(b) Are Government prepared to take early action to fix on one of these bodies the responsibility to complete the necessary arrangements at an early date with a view to relieving the inhabitants from the difficulties stated above?

Mr. G. S. Bajpai: With your permission, Sir, I will answer questions 1690 and 1691 together.

Enquiries have been made and the result will be communicated to the House in due course.

**DELAY IN THE DISPOSAL OF APPLICATIONS OF DEPRESSED CLASSES BY
THE NAZUL DEPARTMENT, DELHI.**

†1691. ***Rao Bahadur M. C. Rajah:** (a) Are Government aware that the Nazul Department of Delhi delays the applications of the persons belonging to the Depressed Classes who want plots of land to build houses, even after the necessary orders have been passed by the Deputy Commissioner, Delhi?

(b) Are Government prepared to see that such applications are disposed of expeditiously?

**WORK OF CASH RECEIPTS AND DISBURSEMENTS ON THE STATE-MANAGED
RAILWAYS.**

1692. ***Mr. S. C. Mitra** (on behalf of Sardar Sant Singh): (a) Will Government please state the names of the State-managed Railways and the offices connected therewith on which the work of cash receipts and disbursements is done—

- (i) under State management, and
- (ii) through contractors?

(b) Will Government please state the reasons for the disparity of the arrangements on the different State-managed Railways and their offices—

†For answer to this question, see answer to question No. 1690.

and have Government considered the desirability of having a uniform system for getting the cash work done either through contractors on all the said Railways and their offices, or under its own management, whichever may be really economical from the point of view of the tax-payers?

Mr. P. R. Rau: (a) The work is entrusted to a contractor on the North Western Railway; on the other State-managed Railways, it is carried out departmentally.

(b) Government do not consider that there is any necessity for uniformity in this matter, nor that one system can be said to be *per se* better than the other. The cash contract system has been working satisfactorily and cheaply on the North Western Railway for a long time but so has the departmental system on the other railway which has been under State-management for an equally long period, *viz.*, the Eastern Bengal Railway. An attempt was recently made to introduce the cash contract system on the East Indian Railway and tenders were called for, but no satisfactory arrangements could be made and the attempt was given up. Other methods of reducing expenditure in connection with cash and pay work on this and the Great Indian Peninsula Railway are at present under consideration.

TENDERS FOR THE CONTRACT OF CASH WORK OF THE RAILWAY CLEARING ACCOUNTS OFFICE, DELHI.

1698. ***Mr. S. C. Mitra** (on behalf of Sardar Sant Singh): (a) Is it a fact that in giving cash contracts on State-managed Railways, tenders are invariably not called for? If so, are Government prepared to consider the desirability of introducing the procedure of calling for tenders?

(b) Are Government aware that there are bankers of good repute in Delhi who are treasurers to Government treasuries, banks, etc.? If so, will Government please state if tenders will be called for for the contract of cash work of the Railway Clearing Accounts Office? Is it proposed to be given to the Head Cashier of a certain Railway?

Mr. P. R. Rau: (a) The answer to the first part of the question is in the negative and the second part does not arise.

(b) The answer to the first part of the question is in the affirmative. The cash work of the Railway Clearing Accounts Office is so small that it has been considered unnecessary to call for tenders for it. It is proposed to entrust the work to the Cashier of the North Western Railway at a small additional remuneration of Rs. 175 per mensem.

COMPLAINTS OF THE PUBLIC OF DELHI CITY, ABOUT THE CORRUPTION IN CERTAIN DEPARTMENTS.

1694. ***Mr. N. R. Gunjal:** (a) Are Government aware of the general complaint of the public of Delhi City about the corruption in most of the departments on account of nearly all the responsible posts being in the hands of the same persons for the last so many years? If not, do Government propose to enquire into the matter?

(b) Will Government be pleased to state whether there is a general rule in practice in every province in India to transfer an officer after

every three years? If so, why are the officers of Delhi not transferred for years and years?

(c) Will Government be pleased to state whether there is a clear rule that an officer cannot be posted in his residential place? If so, why are the responsible posts given to persons who are residents of Delhi?

The Honourable Mr. H. G. Haig: With your permission, Sir, I shall answer questions Nos. 1694 and 1695 together. I am making inquiries and will lay a reply on the table in due course.

RESIDENCE AND PERIOD OF STAY IN DELHI OF CERTAIN OFFICIALS OF THE DELHI PROVINCE.

†1695. ***Mr. N. E. Gunjal:** (a) Will Government be pleased to place a statement on the table showing the residence and period of stay in Delhi of heads, assistants, sub-assistants and superintendents of the following departments:—1. Delhi Public Works Department, 2. Delhi Tahsil, 3. Delhi Nazul, 4. Delhi Industrial Surveyor, 5. Delhi Excise and 6. Delhi Deputy Commissioner's Office?

(b) Do Government propose to send back to the Punjab or elsewhere as soon as possible persons whose usual tenure of appointment is over and also those who are residents of Delhi to remove the public grievances; if not, why not?

SHORT NOTICE QUESTION AND ANSWER.

STRIKE ON THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

Mr. G. Morgan: With reference to the reply given by the Honourable Member for Railways to Mr. Maswood Ahmad's short notice question on the 24th November, 1932, will Government be pleased to indicate their attitude in regard to the question of the grant of pay to strikers during the period they are on strike?

The Honourable Sir Joseph Bhoré: Government are definitely opposed to the grant of pay to strikers during the period they are on strike.

Mr. O. S. Ranga Iyer: Will Government be pleased to state what was the reason for the Madras and Southern Mahratta Railway strike?

The Honourable Sir Joseph Bhoré: Well, Sir, I made a rather complete statement in regard to that a few days ago and I would refer my Honourable friend to the statement which I then made.

Mr. O. S. Ranga Iyer: Was it not a fact that the strike was a result of panic?

The Honourable Sir Joseph Bhoré: On whose part?

Mr. O. S. Ranga Iyer: On the part of the employees, but panic arising from panicky rumours and panicky situation created by the railway administration from time to time.

†For answer to this question, see answer to question No. 1694.

The Honourable Sir Joseph Bhoré: I should say not.

Mr. C. S. Ranga Iyer: Is it not a fact that while every railway administration attempted to reduce the surplus figures, the Madras and Southern Mahratta Railway administration inflated its figures in the course of a few weeks?

The Honourable Sir Joseph Bhoré: It is absolutely unfounded.

Mr. C. S. Ranga Iyer: Is it not a fact that the Agent admitted his mistake in regard to the inflation of the figures in regard to the Perambur workshops and also the mistake of his predecessor and the Chief Mechanical Engineer?

The Honourable Sir Joseph Bhoré: I think he certainly admitted that he made a mistake.

Mr. C. S. Ranga Iyer: Is it not a fact that on the 31st October the Agent of the Madras and Southern Mahratta Railway stated that the surplus stated by him before the strike, namely, 474 was wrong and that it should be increased to 700?

The Honourable Sir Joseph Bhoré: That I think is probably correct but I must have notice of the question.

Mr. C. S. Ranga Iyer: Was it not a fact that the Union asked for supply of information about adjustment of these surpluses and a circular was issued on the 23rd September, that 474 was the surplus?

The Honourable Sir Joseph Bhoré: I cannot state the exact date or contents of those circulars.

Mr. C. S. Ranga Iyer: Is it not a fact that on the 1st November, the Agent wrote to the Union 12 days after the strike that the surplus was about 700?

The Honourable Sir Joseph Bhoré: If my Honourable friend will put down these questions, I shall obtain the necessary information and supply him with it.

Mr. C. S. Ranga Iyer: Has the attention of the Government been drawn to the Resolution passed by the Madras Corporation inviting the Government to take steps to settle the strike and the statements made by Sir Sivaswamy Aiyar, Right Honourable Srinivasa Sastri, Sir K. V. Reddi and others?

The Honourable Sir Joseph Bhoré: I have seen the statements referred to by my Honourable friend.

Mr. C. S. Ranga Iyer: Are Government aware that because of the panic and the conflicting statements made by the Agent from time to time the employees got panic-struck and, therefore, they went on strike?

The Honourable Sir Joseph Bhoré: It is possible that the employees were panic-stricken. I have no information as to that.

Mr. C. S. Ranga Iyer: In these circumstances will Government consider the advisability of giving pay to those employees who went on strike when they are reinstated?

The Honourable Sir Joseph Bhoré: Most certainly not.

Mr. C. S. Ranga Iyer: Was there not a difference of 12 days between the one statement made by the Agent and the other statement inflating the figures, thus causing the extension of the strike and increasing the panic?

The Honourable Sir Joseph Bhoré: I cannot give my Honourable friend precise information on that point.

Mr. C. S. Ranga Iyer: Will Government consider the advisability of giving them part payment, if not full payment?

The Honourable Sir Joseph Bhoré: No, Sir, in no circumstances.

Mr. C. S. Ranga Iyer: Will Government consider the advisability of taking in every one who has been sent away?

The Honourable Sir Joseph Bhoré: That is a matter for the Administration to consider.

Mr. C. S. Ranga Iyer: Will Government recommend to the Agent the advisability of taking back those who have been sent back?

The Honourable Sir Joseph Bhoré: No, Sir.

Mr. C. S. Ranga Iyer: Why not?

The Honourable Sir Joseph Bhoré: Because Government are not in a position to dictate what action should be taken in this matter.

Mr. C. S. Ranga Iyer: Have any negotiations been carried on by the Government with the Union and what stage have those negotiations reached?

The Honourable Sir Joseph Bhoré: No negotiations as far as I am aware with any Union.

Mr. C. S. Ranga Iyer: Is it not a fact that the Whitley Commission recommended that in certain circumstances the Government should set up an arbitration Board to inquire and settle matters like this?

The Honourable Sir Joseph Bhoré: That may be so, Sir, but I must refer to the Whitley Commission's report before I commit myself.

Mr. K. Ahmed: Is it not a fact, Sir, that under the Trade Dispute Act, passed by this Assembly, the Union has a right to ask the Government to go into the matter and that the Government are bound to make inquiries into it under the provision of that enactment?

The Honourable Sir Joseph Bhoré: I do not think it is correct to say that the Government are bound to make inquiries. The Union is certainly entitled to ask the Government to make inquiries.

Mr. K. Ahmed: Have Government got any petition or memorial or will they *suo motu* set up an inquiry under the circumstances?

The Honourable Sir Joseph Bhoré: I must have notice of that question:

Mr. K. Ahmed: That is the criterion in view of the fact

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Will the Honourable Member put a supplementary question if he wishes to do so?

Mr. K. Ahmed: Do Government propose to set up an inquiry under the circumstances?

The Honourable Sir Joseph Bhoré: Not at present.

Mr. C. S. Ranga Iyer: Is it not a fact that before the strike, the Madras and Southern Mahratta Railway Employees Union asked for a Conciliation Board and the Railway administration refused to join in the application?

The Honourable Sir Joseph Bhoré: That is a point on which I must ask for notice.

Mr. C. S. Ranga Iyer: The Honourable Member may take it from me that it is a fact. Were any efforts made by the Government of India to avert the strike by meeting the parties concerned and trying to bring about a settlement?

The Honourable Sir Joseph Bhoré: That was a matter for the Agent to settle with the strikers. It is a Company-managed administration and Government were not prepared to interfere at that stage.

Mr. C. S. Ranga Iyer: Is the Government aware that the Agent has throughout taken an intransigent attitude, changing his facts and figures from time to time?

The Honourable Sir Joseph Bhoré: I cannot admit that the Agent has taken an intransigent attitude in the matter.

Mr. C. S. Ranga Iyer: Will Government be pleased to find out from the Agent why he was unwilling to join in the application for a Conciliation Board?

The Honourable Sir Joseph Bhoré: That is best known to the Agent himself.

Mr. C. S. Ranga Iyer: Will Government ascertain from the Agent why he assumed that attitude of intransigence?

The Honourable Sir Joseph Bhoré: No, Sir.

Mr. C. S. Ranga Iyer: Why not?

The Honourable Sir Joseph Bhoré: Because I do not propose to do so.

Mr. C. S. Ranga Iyer: Are Government aware that because of this policy of intransigence, the Agent caused the strike and thereby caused intense suffering to the employees?

The Honourable Sir Joseph Bhoré: I do not admit the suggestion contained in my Honourable friend's question.

Mr. C. S. Ranga Iyer: Will Government be pleased to make a full statement on this subject at their earliest convenience?

The Honourable Sir Joseph Bhoré: I have made a very full statement a few days ago and I suggest that my Honourable friend should read that statement.

Mr. C. S. Ranga Iyer: Will Government consider the advisability of taking conciliatory steps to satisfy those who have gone on strike?

The Honourable Sir Joseph Bhoré: It is open to the strikers to approach the Agent and I have no doubt that if they do so he will consider any suggestions they may have to make.

Mr. C. S. Ranga Iyer: Are Government aware that there is widespread sympathy with the strikers in Madras not only among the people but also amongst the railway men?

The Honourable Sir Joseph Bhoré: That may be so but sometimes sympathy is misplaced.

Mr. C. S. Ranga Iyer: Can Government deny that there was an inflation of surplus figures by the Agent?

The Honourable Sir Joseph Bhoré: There was no question of inflation whatsoever. The Agent made a mistake in his calculation and the moment he discovered it he informed the Union of the facts.

Mr. C. S. Ranga Iyer: Are Government aware that this miscalculation on the part of the Agent has created a certain amount of panic among the employees?

The Honourable Sir Joseph Bhoré: That I cannot say, Sir.

Mr. C. S. Ranga Iyer: Will Government try to ascertain whether the panic arose from this miscalculation, and how far this miscalculation was responsible for the strike?

The Honourable Sir Joseph Bhoré: I do not think, Sir, that that enters into the question at all.

Mr. C. S. Ranga Iyer: Will Government be pleased to take it from me that that very much entered into the question and that leads us to the question of pay of those who went on strike?

Mr. K. P. Thampan: Do I understand that the strike is practically over now?

The Honourable Sir Joseph Bhoré: No. I have no reason to believe that it is over.

Mr. K. P. Thampan: Is the strike going to be extended to other branches of the Railway?

The Honourable Sir Joseph Bhoré: So far the strike is confined to the workshops. It has not extended as yet to the line.

Mr. K. P. Thampan: I remember to have read in the papers two days ago that labourers of other Departments are also thinking of going on strike?

The Honourable Sir Joseph Bhoré: I have also read that, Sir.

Mr. C. S. Rangā Iyer: Has the attention of the Government been drawn to the following circular issued by the Chief Mechanical Engineer under the Agent's instructions on the 19th September:

"In order that the employees in the Perambur mechanical workshops may understand the present position regarding surplus men, I am authorised to publish the following information. At present there are 160 permanent men of the workshops who are transferred to the Re-Modelling Works."

The Honourable Sir Joseph Bhoré: What does the Honourable Member want to know in regard to that circular? I have no doubt that some such circular as he is quoting from was issued.

Mr. C. S. Ranga Iyer: I shall put it in the form of a question:

"Is the Government aware that the original idea was that the 110 men suddenly turned into 160 on the 19th September were to be sent away after the work of Re-Modelling Works was finished?"

The Honourable Sir Joseph Bhoré: My Honourable friend is merely labouring the same point in repeating his question. I have admitted that the Agent made a miscalculation, and the moment he discovered his mistake, he informed the Union of that mistake.

Mr. C. S. Ranga Iyer: May I draw the attention of the Government to the fact that it was not one miscalculation, but a series of miscalculations, a sort of ascending gradation of step by step miscalculation, until from nil the figures mounted up to 700, creating a continuous panic among the employees and finally resulting in a strike, owing to a policy which could easily have been avoided. Are Government aware of that?

The Honourable Sir Joseph Bhoré: I am aware of the fact that the figures were never nil, Sir.

Mr. C. S. Ranga Iyer: They were certainly very much below 100. Can Government deny that statement?

The Honourable Sir Joseph Bhoré: I do not know exactly what the figures were, but in my recollection I think the first figures were 110.

Mr. C. S. Ranga Iyer: Lastly, Sir, I would ask the Government whether they would be pleased to take into consideration the circumstances that led up to the strike and deal with the strikers generously.

The Honourable Sir Joseph Bhoré: It is not a matter for the Government at this stage. It is a matter for the Local Administration, Sir.

Mr. C. S. Ranga Iyer: May I request the Government to advise the Local Administration on those lines?

The Honourable Sir Joseph Bhoré: The matter is receiving their very careful attention from day to day.

STATEMENTS LAID ON THE TABLE.

The Honourable Sir George Schuster (Finance Member): Sir, I lay on the table the information promised in reply to starred questions Nos. 1325, 1326 and 1328 to 1336 asked by Mr. Gaya Prasad Singh on the 21st November, 1922.

PRINTING OF TEN-RUPEE NOTES IN THE CURRENCY NOTE PRESS, NASIK.

*1325. (a) The figures required by the Honourable Member are not readily available, but I presume the figures given below will provide him with the information he desires. The numbers of forged ten-rupee notes received by the Intelligence Bureau from Currency Offices in March, April and May, 1928 were 903 and 523 and 878 respectively, against 187 in April, 1927. In April, 1928, the forgeries of one series were detected in 51 places covering practically the whole of India and Burma. The printing of ten-rupee notes of the old form was begun in the Currency Note Press in April, 1928. The change of design was decided on in July, 1928.

(b) One Assistant Supervisor (Mr. Critchell) was removed from the probationary appointment he was holding on the Control side and reverted to a daily paid job on the technical side. He subsequently showed himself fitted (still on the technical side) for appointment as Junior Supervisor on the rate of pay mentioned in the question. The probationary Chief Supervisor was also reverted from the Control to the technical side where he had received his previous training. Mr. Critchell is connected by his brother's marriage to Mr. Hildreth. The fire resulted from the careless throwing away of a match, used to illuminate a dark place on a machine, without previously extinguishing it. The damage was trivial and the perpetrator was merely warned.

(c) The star watermarked paper was not used for the new design as it was considered advisable for further protection to adopt a watermark portrait of His Majesty.

AMENITIES IN EUROPEAN AND INDIAN STYLE QUARTERS FOR THE STAFF OF THE CURRENCY NOTE PRESS, NASIK.

*1326. (a) Mr. Kapur, Mr. Dutta Gupta and Mr. Mascarenhas live in European style quarters. Such quarters were not offered to those living in Indian style and the question of refusal did not therefore arise. The answer to the rest of the question is in the negative.

(b) The European style quarters are fitted with electric fans and English style bathrooms, lavatories and kitchens. The Indian style quarters have Indian style lavatories, washing places and kitchens and compounds completely enclosed by walls

and no electric fans. The free supply of water to various styles of quarters is as follows :

European style quarters.

Classes I and II	6,000 gallons.
Class III	1,500 gallons.

Indian style quarters.

Class I	3,000 gallons.
Class II	2,000 gallons.
Classes III and IV. All their requirements.	

The difference between the free allowances for European and Indian quarters is due to the greater consumption of water in the English style of bathing.

SHORTAGE OF CURRENCY NOTES AT NASIK.

*1328. (1) One note of Rs. 100. Mr. Ganguli and Mr. Ghose were in charge; both of them have since been retrenched.

(2) One note of Rs. 5 and two notes of Rs. 10. The responsibility could not be fixed on any individual. The probabilities are that the notes were not stolen but were destroyed inside the Press with a view to making trouble.

CASES OF THEFT OF CURRENCY NOTES REPORTED TO THE MAGISTERIAL COURTS AT NASIK.

*1329. (a) No such case is known, nor has any such judgment been received by the Master, Security Printing.

(b) Thefts are not reported to magisterial courts.

PREFERENTIAL TREATMENT IN THE DISCHARGE OF AN EMPLOYEE OF THE CURRENCY NOTE PRESS, NASIK.

*1330. (a) As stated in reply to question No. 1328 the responsibility for the loss of Rs. 5 currency note sheets could not be fixed on any particular individual. Mr. Patel has proved himself a more useful officer than Mr. Mishra and is therefore retained.

(b) Yes.

ALLEGATIONS AGAINST THE MASTER, SECURITY PRINTING INDIA, NASIK.

*1331. (a) The incident referred to occurred in private life outside the Press. On investigation it was found that both parties were in the wrong and they were duly admonished by the Master. No weight was attached to this incident when deciding that Mr. Mishra should be retrenched.

(b) The matter was of such a trivial nature that Government do not think that any useful purpose will be served by placing the papers on the table of the House.

(c) No. As stated above, both parties were verbally admonished by the Master, Security Printing. It is not a fact that the attitude of the Master is always anti-Indian.

(d) No.

APPOINTMENT OF ADYA GAUD BRAHMINS AS ASSISTANT SUPERVISORS, CURRENCY NOTE PRESS, NASIK.

*1332. (a) Candidates who in the opinion of the Master appeared most suitable were appointed and at the time of retrenchment the most efficient were retained.

(b) None of them is either a relation or is closely connected with the Chief Supervisor, Control, who does not hail from Ratnagiri.

(c) Beyond the fact that Mr. G. V. Desai is a relation of Mr. Topiwalla who is known to the Chief Supervisor, there is no truth in any of the suggestions in the question.

(d) The Chief Supervisor, Control, was transferred from the post of Bullion Keeper, Bombay Mint, on the 10th September, 1923. Three Adya Gaud Brahmins of the Ratnagiri district have been appointed since that date.

(e) No.

(f) Every endeavour was made to equalise the representation of various communities, castes and creeds from among those whose qualifications appeared suitable.

(g) No.

CLAIMS OF RETRENCHED SUPERVISORS FOR VACANCIES OCCURRING IN THE CURRENCY NOTE PRESS, NASIK.

*1333. The claims of those with satisfactory service will certainly be favourably considered and they were so informed at the time of their discharge.

INDIANISATION IN THE NASIK PRESSES.

*1334. (a) Owing to a decrease in the demand for the manufactures of the Press a number of posts had to be retrenched and in doing so the proportion of Europeans to Indians has been diminished by dispensing with services of some of the former. When the present depression ceases and the posts now retrenched are required, they will be filled by Indians. Two Indians have been engaged on probation for special training for superior posts and are shaping well.

(b) As soon as suitable Indians are available. As stated above, attempts are being made to train Indians for superior posts in the Press.

RETRENCHMENT IN THE CURRENCY NOTE PRESS, NASIK.

*1335. The selection for retrenchment was made by a Board consisting of the Master and Head of the Branch concerned in each case.

ASSESSED RENTS PAID BY EUROPEANS AND ANGLO-INDIANS FOR THEIR QUARTERS AT NASIK.

*1336. (a), (b) and (c). Europeans and Anglo-Indians paying rent under rule are :

	Rs.	A.	P.
Col. Sir George Wilhis	387	8	0
Lt.-Col. W. E. Perry	247	8	0
Mr. Cackett	128	0	0
„ Bachelor	95	0	0
„ Jones (T. E.)	83	0	0
„ Macey	66	0	0
„ Corby	35	0	0
„ Johnson	32	0	0
„ Weir	43	0	0
„ Griffin	22	0	0
„ Ley	22	0	0
„ Critchell	19	0	0
Miss Griffin	13	8	0

(d) The standard rent of the quarters occupied by the Master is Rs. 560. Since all these quarters were built at a time when building costs were excessive it was not possible to provide accommodation suitable to the posts at a cost which would result in the standard rent not exceeding the maximum chargeable, viz., 10 per cent. of emoluments.

The Honourable Mr. H. G. Haig (Home Member): Sir, I lay on the table the information promised in reply to starred question No. 1600 asked by Mr. Jagan Nath Aggarwal on the 6th December, 1932.

MEETINGS HELD IN LAHORE IN CONNECTION WITH THE REMOVAL OF
UNTOUCHABILITY.

*1600. The individuals named were arrested. The question whether the meetings attended by them were religious or political meetings is now *sub judice*.

The Honourable Sir Frank Noyce (Member for Industries and Labour): Sir, I lay on the table the information promised in reply to part (b) of starred question No. 1376 asked by Seth Haji Abdoola Haroon on the 22nd November, 1932.

NON-RECRUITMENT OF MUSLIM CLERKS IN THE OFFICE OF THE DIVISIONAL
ENGINEER, TELEGRAPHS, NEW DELHI.

*1376.

Table showing the number of Muslims and Non-Muslims recruited after 1925 in the different Postal Circles.

	Muslims.	Non-Muslims.
Bengal and Assam Circle	29
Bihar and Orissa Circle	2	8
Bombay Circle	1	10
Burma Circle	4	25
Central Circle	1	8
Madras Circle	14
Punjab and N.-W. F. Circle	8	30
Sind and Baluchistan Circle	3	7
United Provinces Circle	3	20

N.B.—It is mentioned for information that a Telegraph Engineering Divisional office does not form a separate unit for purposes of recruitment. Until recently the recruitment was conducted on a circle basis. While now the division as a whole, including the Divisional office, forms such a unit.

Mr. T. Ryan (Director General of Posts and Telegraphs): Sir, I lay on the table the information promised in reply to supplementary questions to starred question No. 1072 asked by Shaikh Fazal Haq Piracha on the 9th November, 1932.

STOPPAGE OF RECRUITMENT OF MEN OF THE PREPONDERANT COMMUNITY IN THE POSTAL DEPARTMENT.

*1072. Mr. Booth, as Postmaster General, Punjab and North-West Frontier Circle, did not issue any general orders affecting the whole circle but issued special orders affecting particular postal divisions and first class post offices in the circle, on various occasions from 1922-26. Examples of such orders are the following :

1. *Order dated 10th February, 1923, concerning the Amritsar (Postal) Division.*—“The recruitment of Hindus should now be stopped until there has been an adequate increase in the number of Mohammadans and Sikhs, particularly the latter.”
2. *Order dated March, 1923, concerning the Lahore (Postal) Division.*—“In future Hindus are to be recruited only in 4th vacancies as they occur.”
3. *Order dated 1st October, 1923, concerning the Delhi Head Office.*—“No more Hindus are to be admitted to the clerical staff of your office, except graduates, until further orders.”

It was made clear by an order of September, 1924, that in most of the cases in question the stoppage of recruitment of Hindus was intended to apply to candidates other than graduates and undergraduates.

The special orders referred to above were issued by the Postmaster General with a view to securing the object desired by the Government of India, *viz.*, prevention of the preponderance of any one community in the service. They were superseded however by general orders in conformity with the instructions issued by the Government of India in the Home Department for the redress of communal inequalities.

Mr. G. S. Bajpai (Secretary, Department of Education, Health and Lands): Sir, I lay on the table the information promised in reply to starred question No. 570 asked by Sardar Sant Singh on the 21st September, 1932.

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

*570. Enquiries made show that the Medical Officer of the Summer Hill dispensary did not refuse to attend on Indian clerks. He has now been instructed to afford medical aid to the civilian clerks of the Government of India Secretariat and Attached Offices residing in Government quarters at Summer Hill and their families and to provide them free of charge with such medicines as are required and are available in the Dispensary. This arrangement has been sanctioned provisionally for one year. The usual fees will be payable for consultation, professional advice and care in the case of families

Mr. P. R. Rau (Financial Commissioner, Railways): Sir, I lay on the table:

- (i) the information promised in reply to starred question No. 1230 asked by Mr. Nabakumar Sing Dudhoria on the 16th November, 1932.

- (ii) the information promised in reply to unstarred question No. 125 asked by Sir Zulfiqar Ali Khan on the 27th September, 1932;
- (iii) the information promised in reply to unstarred question No. 67 asked by Mr. N. M. Joshi on the 27th September, 1932;
- (iv) the information promised in reply to starred questions Nos. 970 and 971 asked by Mr. M. Maswood Ahmad on the 8th November, 1932;
- (v) the information promised in reply to unstarred question No. 77 asked by Mr. S. C. Mitra on the 27th September, 1932;
- (vi) the information promised in reply to unstarred question No. 78 asked by Mr. S. C. Mitra on the 27th September, 1932; and
- (vii) the information promised in reply to starred question No. 1346 asked by Mr. E. H. M. Bower on the 21st November, 1932.

POWER HOUSES OWNED BY THE EAST INDIAN RAILWAY.

*1230. (a) 19,

(b) Jamalpur.		Jasidih.
Lillooah.	Dhanbad.	Barakar.
Asansol.	Moghalsarai.	Raneegunge.
Ondal.	Gaya.	Panagar.
Collieries.	Lucknow.	Kiul.
Tundla.	Gomoh.	Hazaribagh.
Jhajha.	Ajodhya.	

(c), (d) and (e). No Resident or Assistant Engineer is directly in charge of individual Power Houses. They are supervised by qualified subordinates under the general supervision of the Electrical Engineers of the section in which they are situated. Government do not consider any useful purpose will be served by collecting information regarding names, qualifications and pay of the men in charge of these Power Houses.

ALLEGED DIFFERENTIAL TREATMENT IN CONNECTION WITH THE FILLING UP OF LEAVE VACANCIES ON THE NORTH WESTERN RAILWAY.

125. (a) Yes.

(b) No. There was, however, a misunderstanding previously regarding the use of the words "Branch and Section". The Commercial Branch is composed of several sections which have erroneously been called 'branches', viz., Compensation, Rates, Refunds, Litigation, Outstandings, Lost Property and Cash witnesses. These are actually sections and are again divided into sub-sections.

(c) Does not arise.

(d) There has been no such case in recent years.

(e) A Muslim clerk was first instructed to officiate in Grade IV, but on detailed examination by the principal officer concerned it was subsequently found that no officiating arrangements were necessary in the vacancy and the arrangement was cancelled. The clerk in question was not entitled to any officiating allowance because he had only officiated for 11 days when he was reverted, and under present orders an employee must officiate in a higher grade for at least 22 days before he becomes eligible to draw officiating allowance.

(f) The senior most man in the Refund Section, a Christian, was not considered fit to officiate as Head Clerk when the latter went on leave, but the next most senior man, who happened to be a Hindu and was qualified to officiate was allowed to do so.

SUBORDINATES OFFICIATING IN THE SUPERIOR SERVICE OF THE GREAT INDIAN PENINSULA RAILWAY.

67.—

Names.	Total length of officiating service.			The date of confirmation if any of them have been confirmed in permanent vacancies.
	Years.	Months.	Days.	

1. (i) *Transportation (Traffic).*

J. Scott	8	5	1	27th August 1931.
H. L. D'Silva	6	4	..	21st April 1932.
C. Blanche	7	1	19	27th August 1931.
H. H. Callaghan	6	27th August 1931.
D. V. Pandharker	6	11	8	25th July 1931.
G. W. Ruffield	4	10	..	25th July 1931.
G. Mulleneux	4	10	25	
F. Found	4	9	4	
G. E. McCann	4	..	10	On leave prior to retirement from 30th August 1931.
L. J. Gellard	1	7	4	

(i) *Transportation (Power).*

P. L. D. Chatterton	4	3	9	27th August 1931.
B. Nixon	1	4	4	
H. Smith	3	11	14	
H. Ahlitt	1	7	2	

Names.	Total length of officiating service.			The date of confirmation if any of them have been confirmed in permanent vacancies.
	Years.	Months.	Days.	
2. (ii) Commercial.				
H. A. Cox	8	2	13	25th July 1931.
G. M. A. Shortt	7	11	14	25th July 1931.
F. C. Meyer	7	8	22	27th August 1931.
U. Dattatraya	7	5	29	
H. G. Bates	6	4	15	27th August 1931.
F. Carvalho	5	6	11	
P. Kedarnath Govindram.	4	9	20	
J. F. Gomes	3	8	12	
P. A. Karnik	2	3	20	
J. A. Marrett	2	2	19	
T. C. Wynne	1	10	11	
3. (iii) Engineering.				
W. J. Leveridge	3	3	21	Retired.
4. (iv) Mechanical.				
E. B. Temple	1	11	21	
H. Fox	1	7	16	
A. C. Otto	5	10	1	
W. Van Reyk.	6	..	8	27th August 1931.
C. R. C. Carrington	3	10	11	

PARCEL CLERKS ON THE NORTH WESTERN RAILWAY.

*970. (a) No, there are five classes (now called grades).

(b) There is one post in Grade V and one post in Grade IV at Delhi and one in Grade IV at Lahore.

(c) Government regret they are unable to give information regarding the communal composition of individual offices or classes of staff.

(d) The rates of pay of the incumbents of the three posts mentioned in (b) above are Rs. 240, Rs. 180 and Rs. 160 per mensem respectively.

PROMOTION OF MUSLIMS TO CLASS "D" OF PARCEL CLERKS ON THE NORTH-WESTERN RAILWAY.

*971. (a) The scales of pay for the different classes (now called grades) of Parcel Clerks on the North Western Railway are as follows :

Grade I Rs. 33—3—60 with efficiency bar at Rs. 42.

Grade II Rs. 66—4—90.

Grade III Rs. 105—5—140.

Grade IV Rs. 150—10—190.

Grade V Rs. 200—10—250.

(b) Class D is now called Grade III, and there is no Muslim in this grade on the North Western Railway.

(c) Class C is now called Grade II. Promotions to Grade III and above are controlled by the Headquarters Office, and men recommended by Divisional Superintendents are promoted in order of seniority.

(d) Government have no reason to believe that the claims of Muslim Parcel Clerks are not considered along with others when vacancies in the higher grades arise.

APPOINTMENTS IN THE SUPERIOR GRADES OF THE ASSAM BENGAL RAILWAY.

77. (a) A statement giving the available information is laid on the table. The candidates have been appointed either on the strength of their University qualifications or previous experience or both or after training as probationers.

(b) In cases of appointments from England selection is made by the Consulting Engineers and the Home Board. Appointments made in India were not filled by Selection Board except in two cases. The Agent, Assam Bengal Railway reports that there were a large number of candidates, particulars of whom were not kept after the appointments were made.

(c) Appointments are sometimes advertised through the press while sometimes selection is made from the very large number of applications received and from the lists received from the Railway Board from time to time.

Assam Bengal Railway Co. Ltd.
(Incorporated in Great Britain.)

Names.	Qualifications.	District or province.	Department.	Date of appointment.	Remarks.
Dr. J. N. Leitch	Medical .	22-4-24	Not in service.
Mr. J. R. Guha	Dacca (Bengal).	Audit .	16-10-24	
Mr. M. A. Saqui	Traffic .	28-2-25	
Dr. V. J. A. Wilson	Medical .	24-4-25	Not in service.
Mr. J. Izat	Agency .	1-10-25	Do.
Dr. P. C. H. Homer	Medical .	8-1-26	Do.
Mr. J. C. Keating	Engineering	3-9-26	
Mr. J. L. Dutt (Temp.)	Chittagong	Do. .	1-12-26	Not in service.
Mr. Sujan Singh	Do. .	7-10-26	
Mr. T. V. Woods	Traffic .	1-11-26	

Names.	Qualifications.	District or province.	Department.	Date of appointment.	Remarks.
Mr. L. E. Hayman	Traffic .	1-11-26	Not in service.
Mr. J. S. E. Gaston	Engineering	16-3-27	Do.
Mr. Syed Sultan Shah (Temp.)	Do. .	25-3-27	Do.
Mr. E. A. Provan	Loco. .	5-4-27	Do.
Mr. S. Chakravorty	Sibpur (Bengal).	Do. .	5-3-27	
Dr. P. C. Sen	Dacca .	Medical .	1-12-27	
Mr. O. Ormerod	Traffic .	7-10-27	
Mr. F. C. Freeman	Stores .	13-1-28	
Mr. E. W. Baker	Engineering	14-9-28	
Mr. B. G. Roy	Hugli .	Traffic .	9-8-28	
Mr. A. H. Khan	Loco. .	8-2-28	
Mr. E. A. Cole	Do. .	24-11-28	
Mr. S. R. Guha . . .	B.Sc. (Calcutta) A.S.A.A. (London) Incorporated Accountant.	Dacca .	Audit .	18-2-29	
Mr. J. E. Tyers	Loco. .	25-6-29	Not in service.
Mr. J. K. Derriek . . .	Service transferred from E. I. Railway.	..	Audit .	19-12-29	
Mr. G. A. N. Gaston	Engineering	30-7-29	
Mr. R. M. Bhowmik	Bengal .	Do. .	30-9-29	
Mr. A. N. Roy	Do. .	Traffic .	1-4-30	
Mr. A. M. Rankin	Loco. .	7-2-31	
Dr. A. W. J. Morgan	Medical .	7-2-31	
Mr. M. K. Mitra . . .	Late-Controller of Railway Accounts.	Calcutta .	Audit .	4-11-31	
Mr. P. N. Batra	Loco. .	10-2-32	
Mr. N. H. Clegg	Do. .	20-8-31	
Mr. A. Ghosh	Jessore .	Do. .	8-8-32	

The Agent, A. B. Railway, reports that Nursing Sisters are treated as Superior Officers on the A. B. Railway and the information in respect of their appointments since 1924 is as follows:—

Names.	Qualifications.	District or province.	Department.	Date of appointment.	Remarks.
Miss C. Coggins	Medical .	5-10-24	Not in service.
Miss E. Straaten	Do. .	16-9-25	Do.
Miss G. Straaten	Do. .	16-9-25	Do.
Miss M. E. Kelly	Do. .	6-7-26	Do.
Miss G. Mahon	Do. .	2-9-27	
Miss J. Donaghue	Do. .	18-4-31	Not in service.
Miss D. Hart	Do. .	18-4-31	Do.
Mrs. P. E. Marsh	Do. .	16-9-31	Do.
Mrs. E. Symmons	Do. .	2-6-31	Do.
Mrs. B. O'Hara	Do. .	1-3-32	Do.
Mrs. M. D'Rozzario	Do. .	3-8-32	

EMPLOYMENT ON THE ASSAM BENGAL RAILWAY OF QUALIFIED PERSONS OF THE AREA THROUGH WHICH THAT RAILWAY PASSES.

78. (a) Not necessarily the candidates considered most suitable are appointed.
 (b) It is understood that there is no dearth of candidates who belong to the area through which the railway passes.
 (c) The Agent reports that particulars of candidates are not retained after the appointments for which the application has been made have been filled.
 (d) There are 12 officers who belong to the area or closely adjoining areas.
 (e) and (f). No. The appointments are made by or under the authority of the Board of Directors of the Railway Company.

CREATION OF THE POST OF PERSONAL ASSISTANT TO THE POWER OFFICER AT BHUBAWAL.

- *1346. (a) No.
 (b) There are four Power Officers on this Division.
 (c) and (d). Do not arise.

THE BENGAL SUPPRESSION OF TERRORIST OUTRAGES (SUPPLEMENTARY) BILL.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Further consideration of the Bill to supplement the Bengal Suppression of Terrorist Outrages Act, 1932.

The question is:

"That clause 5 stand part of the Bill."

Mr. S. C. Sen:

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): Sir, I move the motion which stands in my name:

"That clause 5 of the Bill be omitted."

Sir, this is a Bill to supplement the Bengal Suppression of Terrorist Outrages Act—not a Bill to amend or repeal that Act or any portion thereof. Now, the Statement of Objects and Reasons appended to the Bill says:

"The Legislative Council of the Government of Bengal have passed an Act known as the Bengal Suppression of Terrorist Outrages Act. As the Government of Bengal have no power to pass legislation which affects the jurisdiction of the High Court of Judicature in Calcutta, it is necessary to supplement this Act by an Act of the Central Legislature, to provide for appeals to the High Court in certain cases and to exclude their jurisdiction in other matters."

Sir, in the Notes on Clauses it is stated:

"The provisions of this clause are not capable of enactment by the Local Legislature in so far as they affect the jurisdiction of the High Court. They exclude interference of a nature likely, if exploited, to diminish the efficacy of action taken under the local Act, and are intended to ensure the speedy trial of terrorist offences."

Now, Sir, clause 3 of this Bill has provided for appeals to the High Court of Judicature in Calcutta,—a procedure which it is admitted that the Local Council could not provide. Now, we come to clause 5. In the Statement of Objects and Reasons it is stated that this clause has been added for the purpose of curtailing the powers of the High Court, and my friend, the Honourable the Home Member, while introducing this Bill, stated as follows:

"We propose that just as the Bengal Act has removed the jurisdiction of the lower Courts, we should remove the jurisdiction in this matter of the High Court. The last provision is contained in clause 5 of the Bill and provides for the exclusion of interference of High Courts with the proceedings in the Courts of Special Magistrates."

In other words, the High Court will not have power to entertain applications in revision. It has, however, been admitted by the Honourable the Law Member that this Legislature is incompetent to do what the Honourable the Home Member wanted this House to do. Under these circumstances, the object for which this clause has been added, is for the curtailment of the revisionary power of the High Court. It is admitted by the Honourable the Law Member, and he has also put forward certain amendments for the purpose of showing that there is no intention to curtail the jurisdiction of the High Court. Now, Sir, for what purpose is this clause now to stand? That is the first question which the Honourable the Law Member will have to answer. Now, for the purpose of my argument, I shall divide the clause into two parts. The first part is:

"Notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall, save as provided in the local Act as supplemented by this Act, be no appeal from any order or sentence passed by a Special Magistrate under the local Act."

Sir, this bars all appeals save as provided in the Local Act and under this Act. Is this necessary? I will refer the Honourable the Home Member to section 404 of the Criminal Procedure Code which provides:

"No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force."

Now, Sir, the Bengal Act has provided for certain appeals to the Sessions Court and, by clause 3 of this Bill, we have provided for appeal to the High Court. That completes the whole cycle, namely, from any sentence passed by Special Magistrates, whether in Calcutta or outside, we have provided an appeal. As a matter of fact, the provisions here have gone further than the provisions of the Criminal Procedure Code, for, under the Criminal Procedure Code, there was no appeal from the Presidency Magistrate for sentences of six months and of certain limited fine. But, under this clause 3, we have provided for every appeal from every sentence passed by the Presidency Magistrate. Similarly, under the Code, there are certain limits for appeal from a Magistrate of the First Class and it must be remembered in this connection that the Special Magistrates can either be the District Magistrate or First Class Magistrates. Under this Act and the provisions contained in section 3 we have provided for appeals of every class of sentence passed by the Special Magistrate either to the High Court or to the Sessions Judges. Under these circumstances, may I know, for what purpose this provision which is contained in the first part of the clause shall stand? There is no utility for it except to encumber the Statute and to make it more incomprehensible.

Now, I come to the second part of the clause :

"and save as aforesaid, no Court shall have authority to revise such order or sentence, or to transfer any case from any such Magistrate, or to make any order under section 491 of the Code, or have any jurisdiction of any kind in respect of any proceedings of any such Magistrate, or of any direction made under Chapter II of the local Act."

I maintain, Sir, that this provision of the Bill goes beyond the Preamble and in effect repeals one of the clauses contained in the Bengal Act which, I submit, having regard to the Preamble, this Legislature cannot do. Now, let me put before you the clauses in the Bengal Act under which I say that this goes beyond or rather amends or repeals the provisions of that Act. Section 26 of the Bengal Act provides :

"In the trial of any case under this Act, a Special Magistrate shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates."

Therefore, so far as the Code is concerned, those provisions of the Code which deal with procedure are incorporated here. This is merely a matter of procedure. There are in the Code provisions for revision by the Sessions Judge. Now, let us see how far this Act has affected that power of the Sessions Court. There is nothing in the Act which debars the exercise of that power by the Sessions Court. On the other hand, section 34 of the Act especially enjoins such power being exercised. It runs thus :

"The provisions of the Code and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Chapter, shall apply to all matters connected with, arising from or consequent upon a trial by Special Magistrate."

Then, Sir, except to the extent of the provisions which have been made inconsistent by the special provisions contained in this Act, all the provisions of the Code apply to the trial by the Special Magistrate whether it is before or after the judgment or during the pendency of the trial. Now, Sir, it may be said that there are sections in this Act which to a

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certain extent modify the powers contained in the Code of Criminal Procedure. For that purpose I may point out clause 4 of section 32 of the Act, which runs thus :

"Under section 32, a Special Magistrate in a trial when any accused rendered himself incapable of appearing before the Magistrate, can declare by order in writing to dispense with the attendance of such accused."

Now, what happens after his presence was dispensed with? If there are any irregularities after that, provisions have been made barring any remedy. This is contained in clause 4 which runs as follows :

"Notwithstanding anything contained in the Code, no finding, sentence or order passed in a trial before a Special Magistrate shall be held to be illegal by any Court by reason of any omission or irregularity whatever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (1)."

This clause has a very important bearing on the question which I am now putting before you, because, under this clause, all the subsequent irregularities are barred. If it had provided in a general way that all omissions or all irregularities in a trial before a Special Magistrate are barred, I could understand it, but it does not say so. It expressly states that only such omissions and only such irregularities as might happen in the proceedings by reason of or arising from the absence of any or all of the accused. Therefore, such irregularities must be after an order has been made under section 32. Any omissions or irregularities so long as the accused are present are not barred by this clause and, therefore, the provisions contained in the Code relating to the power of revision by the Sessions Judges still remain. Those provisions remain, Sir, first, by implication and, secondly, by virtue of section 94 which enjoins that all the other provisions of the Code which have not been barred by this Statute shall have effect and shall apply. Under these circumstances, my contention is that the provisions contained in the Code and which have been made expressly applicable under section 34 are debarred by this clause 5, and, I submit, that that cannot be done having regard to the Preamble which says that it is to supplement. I do not know whether under section 67 of the Government of India Act sanction has been obtained for amending or repealing this Act. But if such sanction has been obtained only on the ground of the Preamble, namely, that this is an Act to supplement and not to repeal or amend, I submit, no provision ought to be in the Bill which in any way goes beyond the Preamble. With these observations, I move the motion standing in my name for the deletion of the whole clause.

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

"That clause 5 of the Bill be omitted."

The Honourable Sir Brojendra Mitter (Law Member): Sir, so far as I understand Mr. Sen, he has made two points: he says that the first part of clause 5 is unnecessary and that the second part is *ultra vires*. With regard to the first part, I wish the House to remember that under the ordinary law, rights of appeal are given to certain Courts: for instance, from a First-Class Magistrate a right of appeal is given to the Sessions Court in all cases. What we are doing in the first part is that we are giving a right of appeal in certain cases to the Sessions Court and in other cases to the

High Court. To that extent we are changing the law. It is to the benefit of the accused, because, under the Criminal Procedure Code, there was no appeal to the High Court from the decision of a First Class Magistrate. But what we are providing in clause 3 of the Act is that an appeal shall lie to the High Court from any sentence of transportation for a term exceeding two years or of imprisonment for a term exceeding four years passed by a Special Magistrate in any trial under the Local Act held outside the Presidency-town of Calcutta. Therefore, you cannot say that this is unnecessary. We are changing the procedure in the matter of appeal: whereas the Criminal Procedure Code gives an appeal merely to the Sessions Court, we are giving a right of appeal in the lesser sentences to the Sessions Court, but in all the heavier sentences we are giving the appeal to the High Court. If it be asked why we are making this change, I say we are making the change for this reason: we have provided in clause 5 that there should not be any interference with the trial of an accused during its pendency. After the trial is over, we have given large rights to the accused. But, for ensuring a speedy trial and a speedy conclusion, we are stopping all intermediate dilatory proceedings and that is why it is necessary that the accused should be given some more privileges than he has under the Criminal Procedure Code. During the trial he cannot prolong it at his sweet will—he cannot, on any excuse, good, bad or indifferent, run up to the High Court and hold up proceedings. We have stopped all that. Having stopped all that, we are giving the accused greater rights in the matter of appeal: Honourable Members will realise that when an appeal is preferred to the High Court, the accused can take any objection to the order, either on a question of law or on a question of fact or on a question of procedure. Everything is open to the accused, so that substantially we are not taking away any rights, but we are merely ensuring a speedy trial stopping intermediate dilatory procedure. That is the necessity of the first part of clause 5. As regards the second part, my Honourable friend says that it is *ultra vires*, because we say that this is a supplementary Act, but we are not merely supplementing it, but also amending it. That is not a question of jurisdiction. You may say if you are so very meticulous that we ought to have stated this as an Act to supplement and also to amend. If my friend will look to the endorsement on the back of the Bill, he will see it has received the sanction of the Governor General. With the sanction of the Governor General under section 67 of the Government of India Act, this Legislature has the power not merely to supplement, but also to amend. Therefore, there is no question of this Bill being *ultra vires* of the Legislature. You may say that the Preamble is not exhaustive enough: that is the utmost you can say

Mr. S. C. Sen: That is what I have said.

The Honourable Sir Brojendra Mitter: You said it was *ultra vires*

Mr. S. C. Sen: of the Preamble.

The Honourable Sir Brojendra Mitter: If my Honourable friend is so subtle, I can meet his subtlety by another subtlety and that is that the Preamble is never part of the operative portion of an Act. Anyhow, let us not go into those matters. Then, my friend says what becomes of the

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High Court? It was admitted by me, when you, Sir, gave your ruling the other day, that we cannot in any way interfere with the rights of the High Court under section 107 of the Government of India Act. I still say so. On that occasion I pointed out that apart from section 107 of the Government of India Act the High Court derived its powers from other sources—I mentioned two, the Criminal Procedure Code and the Letters Patent; and this Legislature has the right to take away these powers in so far as they arise from the Criminal Procedure Code or the Letters Patent. Therefore, my answer to my friend on the second point of *ultra vires* is, that this Bill is within the competence of this Legislature.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Sir, I support the amendment that has been moved by my Honourable friend, Mr. Sen. I do not wish to argue any question of technicality; but I must point out at the outset that though we accept your ruling as regards the amendments which will be moved, I take it, by the Honourable the Law Member being in order, it does seem absolutely difficult, nay impossible, to conceive how the powers of superintendence which are vested in the High Court and which cannot be in any way affected by legislation by this Assembly are going to be preserved if the clause, as it stands, remains. You may put in any words like what have been used in the amendment which is proposed by the Government. But the difficulty still remains that you have got to define the power of superintendence and the powers which are taken away by this clause. This clause could not be any more sweeping than it is, I mean, even taking the amendments into consideration, the words "notwithstanding any law for the time being in force" include the powers that are exercised by the High Court. Then, we have again, "Notwithstanding the provisions of the Code, etc., no Court shall have authority"—I take it, that includes the High Court,—"to revise such order or sentence, or to transfer any case from any such Magistrate, or to make any order under section 491 of the Code", and so on. It seems to me that, unless we have some sort of definition of the powers of the High Court which are still left and of the powers which are taken away by this clause, it will be putting the High Court in a very difficult position. I do not know how the Honourable the Law Member proposes to reconcile this clause with the powers of superintendence that are vested in the High Courts. Under the powers of superintendence vested in the High Courts, they can revise any sentence or order if they are satisfied that there has been an obvious and gross miscarriage of justice. The fact is that the Magistracy and the subordinate judiciary in this country at this stage could not be trusted with exercising that large powers without some supervision by the High Court. That difficulty still remains in spite of the amendments which are proposed.

Now, I come to the merits. I agree with a great deal of what has been said by my friend, Mr. Sen, but I go further and say that really no good purpose will be served by taking away the powers vested in the High Courts. The Honourable the Law Member pointed out that appeals were allowed from sentences of Magistrates to the High Court which, under the ordinary law, would not go to the High Court, but only to the Sessions Judge. That is perfectly true, but this is not really giving a right to the accused which did not exist; it is really taking away the right of the accused to go to the High Court in order to obtain revision of the sentence if there has been an irregularity or any error in deciding a question of law.

The Honourable Sir Brojendra Mitter: We are curtailing the proceedings.

Sir Abdur Rahim: But look at the powers Government are vesting in the Magistrates. The Magistrate may be a man of four years' standing under section 24 of the Bengal Terrorists Outrages Act, or he may be a man of longer standing, but you are giving him power to pass any sentence except a sentence of death or transportation for more than seven years. He can pass a sentence of hard labour for seven years or six years or transportation for six years, and that is a power which is not given to any Magistrate under the Criminal Procedure Code. This is a special power, and, therefore, the appeal should necessarily be to the High Court. There can be no denying that this is the reason why an appeal is allowed to the High Court. At the same time, you are taking away another remedy which the accused ordinarily has. Under the ordinary law, an accused person, who is sentenced by a Magistrate, has two remedies, one an appeal to the Sessions Judge and then to go to the High Court for revision, if there has been any irregularity or any error in deciding questions of law. Therefore, it cannot be said that a special privilege has been conferred on the accused under this Act. I do not understand why this power of revision by the High Court should be taken away. Do the Government really mean to suggest that the High Court is likely to exercise its powers wrongly or in an erratic manner?

The Honourable Sir Brojendra Mitter: No, Sir; we do not suggest that.

Sir Abdur Rahim: I take it that the Government do not suggest that, People generally in this country have very great confidence in the High Courts

The Honourable Sir Brojendra Mitter: So have we.

Sir Abdur Rahim: In that case, I ask, why should the power of revision by the High Court be taken away even in the interests of speedy trial? The trial is finished, the man has been sentenced, and very likely he is in jail. There is no question of trial. All that the High Court will do under its power of revision is to see that there has not been any grave irregularity of procedure or that a question of law involved in the case has not been wrongly decided. Do the Government contend that if there has been no proper trial, still the conviction must stand and the High Court's hands must be tied?

The Honourable Sir Brojendra Mitter: I think my Honourable friend is under a misconception. The High Courts' powers of superintendence under section 107 cannot be taken away and the High Courts of Calcutta and Bombay, as I pointed out, have exercised powers of revision under section 107. Therefore, it is not a question of the High Courts' powers of revision being taken away.

Sir Abdur Rahim: Then, I say, the Bill is very badly drafted. It says: "No Court shall have authority to revise such order or sentence or to transfer any case". Is not the High Court a Court? I do not find any amendment on the agenda to the effect that it should be no Court than a High Court

The Honourable Sir Brojendra Mitter: There is an amendment. It will be moved presently.

Sir Abdur Rahim: An amendment to the effect that no Court other than a High Court . . . ?

The Honourable Sir Brojendra Mitter: It will be moved presently. I am going to move the last amendment.

Sir Abdur Rahim: Yes, I see, here is one—"Provided always that nothing herein contained shall affect the powers of the High Court under section 107 of the Government of India Act". But this is only a proviso. In the clause itself it says: "No Court shall have authority to revise such order or sentence". Surely the two things are inconsistent. At any rate, it is absolutely bad drafting. I think the Honourable the Law Member is aware that the powers of superintendence are not exercised in the same way as the powers of revision. Power of revision is an ordinary power of the High Court under the Criminal Procedure Code, and it has always been interpreted that the power of superintendence which is vested in the High Court by the Letters Patent or the Charter Act or the Government of India Act is not to be exercised except in very rare cases. I should like to know if the Honourable the Law Member contends that both the powers are exercised in the same way, I mean the powers of revision and of superintendence. If that be so, why take away the ordinary powers of revision of the High Court, unless the position of the Government be, that however irregular the so-called trial has been, even if there has been a gross miscarriage of justice, even if a material question of law which affects the entire trial and the conviction and sentence has been wrongly decided, even then it ought not to be set right.

The Honourable Sir Brojendra Mitter: It can be set right in appeal.

Sir Abdur Rahim: But there is no second appeal. We know, as a
12 Noon. matter of fact, in how many cases revision is sought for from the High Court and the High Court has to interfere . . .

The Honourable Sir Brojendra Mitter: My learned friend is under a misapprehension. An appeal has been given in every case. Whereas appeals do not lie under the Criminal Procedure Code in every case, yet under this Bill and the Bengal Bill an appeal has been given in every case however slight the punishment may be.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muharradman Rural): To the Sessions Court.

Sir Abdur Rahim: My learned friend's contention is this, that there is no occasion for a revision at all, not even against the order of the Sessions Judge in appeal. Then why put in these words? I mean, he cannot get out of it. Surely this is opposed to our every day experience. As the clause is drafted, it is certainly bad. Also, as a matter of fact, there may be revision of certain intermediate or interlocutory proceedings which would otherwise lead to the trial being vitiated by irregularities. Is it the object of the Government that in those cases the High Court should not interfere?

The Honourable Sir Brojendra Mitter: No, that is not so.

Sir Abdur Rahim: Then it is very difficult to understand what is the object. If Government want only to take away the powers of revision, which are vested in the Sessions Court, then say so plainly. In fact the Sessions Court itself cannot revise or alter or repeal a sentence. It cannot do so, it has got to refer to the High Court. So, ultimately the matter has to come to the High Court and it is the power of revision of the High Court that has to be exercised if a wrong conviction has to be set right. The Sessions Judge has got full powers so far as orders of discharge are concerned, but not in the case of convictions. Therefore, if all that is intended by Government is to limit the powers of the Sessions Court as regards the revision of proceedings, then, they could have very easily made that absolutely clear in the clause itself, and they need not have mentioned "Court" in general terms. If that were so, in that case I think there might be no very serious objection to the clause being modified in that way. But if you use language like this, then you are taking away the very necessary and salutary power of the High Court to revise proceedings of Sessions Judges and Magistrates. Now, Sir, as regards transfer, is it intended that there shall be no transfer at all? Supposing a Magistrate from the very inception has shown bias against the accused or has made statements which show that he has prejudged the case, is there to be no transfer at all? Only the other day, the right of transfer, of getting proceedings stopped,—because of an application for transfer—has been considerably curtailed, and we supported that view, in connection with the amendment of section 526 of the Criminal Procedure Code. By this clause, you are doing away with the power of the Superior Court to transfer any case whatever which is pending before a Magistrate. Is that right? Do we not all know by experience that there are cases in which, in the interests of fair trial, a case should be transferred? What is the justification for this prohibition? Take the provision relating to section 491. "No Court shall make any order under section 491". I do not know if my knowledge of the law is rusty, but I should think that that power is only vested in the High Court. How could my learned friend say here that "Court" means only the Sessions Court?

The Honourable Sir Brojendra Mitter: I do not say that "Court" means the Sessions Court. It does include the High Court, but by the proviso the power of the High Court under the Government of India Act is preserved.

Sir Abdur Rahim: Then I take it that by this clause Government are really encroaching upon the power of superintendence of the High Court

The Honourable Sir Brojendra Mitter: Undoubtedly.

Sir Abdur Rahim: To what extent? Let us know clearly what powers are left.

The Honourable Sir Brojendra Mitter: I have explained over and over again that we are taking away the powers which are given by the Criminal Procedure Code, powers which are given by the Letters Patent, but we

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are not taking away the powers given under the Government of India Act. . . . (Mr. S. C. Mitra: "Which you cannot"). . . which we cannot,—quite right. (An Honourable Member: "Very great generosity!")

Sir Abdur Rahim: Does not the power of superintendence cover a great deal of the power of revision?

The Honourable Sir Brojendra Mitter: What it covers it covers.

Sir Abdur Rahim: Then, why express it in such vague and general terms? Define it, say that the High Court shall go so far and no further, and that was really what the Honourable the Law Member was asked to define.

The Honourable Sir Brojendra Mitter: That is the function of the Court, and that is not the function of the Legislature—to interpret what the word "superintendence" means.

Sir Abdur Rahim: But the function of the Legislature is not to put difficulties in the way of the Court, and that is what this clause will do. You are really leaving matters so vague and so inconsistent that it will be very difficult for the High Court to exercise its power of superintendence.

Let us come to the merits of the provision regarding section 491 of the Code; that is what is called the *Habeas Corpus*. Now, supposing a person who has been arrested is kept indefinitely in custody and is not brought before a Magistrate, is it the case of Government that even in such a case the High Court should not interfere? Who then? There is no other authority that can interfere. I take it that the Magistrate, even under this Act, is not expected to keep an accused person indefinitely in custody. But supposing a Magistrate does that from time to time, for months together, if not a Magistrate, supposing the police does it, and the man is not being tried, is it to be said that the High Court should not interfere in such a case? It seems to me that this clause, if it is put on the Statute-book as part of the law applying to Bengal, it will go very far to prevent an accused person having a fair trial, and that certainly is not the object of this Bill or the Bengal Act. You must give the accused person—who is in custody, who has been brought upon a serious charge—you must give him the chance of fair trial, but the chances of fair trial are very seriously prejudiced by this clause.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I support this motion. I think these are not the days when the law should be curtailed or retrograde measures adopted. These are days when the law should be liberalised, should be improved upon, and obstructions such as these should not be put in the way of getting a remedy.

I will come directly to the Bill itself and I submit that I would call this clause 5 not only retrograde, but a cruel one. It provides that three or four powers of the High Court have to be removed. The first is with regard to the revisional powers. At present the High Court has got revisional powers under section 499 of the Criminal Procedure Code and I must point out that, it is not only a Chartered High Court, but every other Court, exercising powers of the Highest Court, have got similar powers

under section 439, Cr. P. C., just as the Judicial Commissioner's Court in Sind. Therefore, the powers under section 439 Cr. P. C. are equal powers in the Chartered High Courts as well as the High Courts not having been created under the Letters Patent. The first attempt of this clause is to take away the powers of the High Court which are called the revisional powers. The second attempt is to take away the power of transferring cases which is again a power given to the High Court and also given in certain cases to District Magistrates. That power is also being done away with under clause 5 of this Bill. Then, the third power, which is minimised by this clause, is the one given under section 491, Cr. P. C., by which the Chartered High Court may send for the proceedings and also to order any person who is in confinement wrongly to be brought up before that Court for liberation. The mischief contained in this clause is that the High Court's jurisdiction on very important points is being impaired. It is the extreme limit to which this clause goes. Now I would refer to certain defects in this clause. I refer to the remark of the Honourable the Law Member that powers are now being given under clause 3 to the High Court to hear appeals under this Bill and that there is no necessity of giving any revisional power to the High Courts under section 439, Cr. P. C., but may I point out to him that under clause 3 the appeal to the High Court from outside the Presidency-town will only lie against sentences which are for more than two years and not below. In that case, it comes to this that under the Bengal Act appeals for two years and more will lie to the High Court, but there will be absolutely no interference by the High Court for lower sentences imposed outside the Presidency-town. Whatever the Sessions Judge does will stand absolute and final. I submit that this is injustice. At present every accused has got the privilege to go to the High Court for revision and to take away those powers in cases where the punishments is for two years and under is absolutely wrong and this is a provision to which, I do not know, if the attention of the Honourable the Law Member has been drawn, for he said no power was being curtailed, but on the contrary the appeals were being allowed to be made to the High Court. But so far as these particular cases from outside the Presidency-town are concerned, the High Court has got no power at all. This is, therefore, the position which we should not accept. Then, coming to the revisional powers, I confess I cannot at all understand the difference the Honourable the Law Member makes out between revision under section 107 of the Government of India Act and revision under section 439 of the Criminal Procedure Code. Up to this time, the Honourable Member has not told us what is the difference. In my humble opinion, there is absolutely no difference and it will be a contradiction in terms to say in one breath that the High Court has got powers under section 107 and in the other breath to say that, under section 439, the High Court has got no powers. Under section 435, Cr. P. C., the High Courts and some other Courts may call for and examine the records of any proceedings of any inferior Criminal Court situate within the local limits of their jurisdiction for the purpose of satisfying themselves as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of such proceedings. The question arises, are similar powers conferred by section 107 of the Government of India Act? If they are, then it is absolutely *ultra vires* to enact the present clause. Reading section 107 of the Government of India Act, what do we find? Each of the Chartered High Courts has got the power of superintendence over all Courts for the time being subordinate to its appellate jurisdiction. These

[Mr. Lalchand Navalrai.]

are very wide powers, even wider than those covered by section 435, read with section 439, Cr. P. C. How is it then that this provision is being enacted in the face of the existing provision under section 107 of the Government of India Act, for, the Honourable the Law Member concedes that the powers under that section are not being wrested away from the High Courts. Therefore, I say, that the legislation which we are attempting to make will be inconsistent with powers under section 107. Furthermore, how could an invidious distinction be maintained between a High Court which is a Chartered one and the other which is not Chartered. There have actually been cases in Sind, which have been reported, wherein proceedings taken under Ordinances could not be sent for by the Court of the highest jurisdiction under section 107, though it was found out that clear injustice had happened in such cases.

The Honourable Sir Brojendra Mitter: That distinction has been made by Parliament, not by us. It is in the Government of India Act itself.

Mr. Lalchand Navalrai: Is it therefore, that you are worsening the position? Unless the Honourable the Law Member provides that powers under section 439, Cr. P. C., will be exercised by a Court which is not a Chartered High Court, he can not be said to be consistent. Otherwise it amounts to taking away at present all powers of revision from Courts of Judicial Commissioners, and I do not know why such an injustice should be allowed to be perpetrated

The Honourable Sir Brojendra Mitter: Does my learned friend not realize that we are dealing only with the Calcutta High Court, because this is a Bengal Act? It has no application to Sind.

Mr. Lalchand Navalrai: I am dealing with the question of principle. The Government might apply the principle—which is being laid down for Bengal today—the next day to other places too. Where is the guarantee that the Government are not on its way to do things that are retrograde? I submit that the Bombay High Court in connection with the Ordinance did send for records under section 107 of the Government of India Act and corrected the proceedings by acquitting the accused concerned. Therefore, I submit, that while it is being suggested that under section 107 of the Government of India Act, proceedings may be sent for, those under section 439, Cr. P. C.—a similar law—would not be sent for, a position is being created which is wholly anomalous. Next, I find, there is a section in the Criminal Procedure Code—section 404—which reads thus:

“No appeals shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.”

Now, reading this section we find that an appeal shall lie in such cases as are provided for by the Code of Criminal Procedure or by any other Act. Unless we have such a section restricting the powers of revision, also in the Criminal Procedure Code Revisional Chapter, the High Court shall not be barred by any legislation, and until such time the High Courts shall have jurisdiction under section 439, Cr. P. C., to send for records. That is another legal difficulty which should be realised.

Then, Sir, as regards the question of transfer, powers in regard to which are being taken away in respect of proceedings under the Bengal

Special Act, at present the High Court and under section 528 of the Criminal Procedure Code, the District Magistrates have powers of transfer and the attempt is that these powers should not be exercised by them. This is wholly objectionable. Sir, I fully agree with the remarks of the Honourable Sir Abdur Rahim, who has so much experience of High Courts and of the administration of justice. We are reduced to this extraordinary position, that under the Bengal Act accused persons remain wholly at the mercy of these Magistrates. After all, Magistrates are human beings, and they may be good, bad or indifferent, and there may be Courts partial or otherwise, but here you are placing the accused absolutely at the mercy of a Magistrate who will practically decide that case finally. Sir, I submit with all the emphasis at my command that such a procedure is absolutely against all canons of justice and against all laws of all countries, that a man, whose case is being tried in a manner flagrantly, wrongly or illegally, should not have the opportunity to go to the High Court for transferring his case! Sir, what is legislation for, for giving justice and no injustice to people? I, therefore, submit that it is wholly and absolutely wrong to do away with the powers of the High Court under section 426, Cr. P. C. Sir, there ought always to be reason, sense and logic in doing things, especially in legislation. What reasons have the Treasury Benches given for this legislation? They say, it will delay matters. That may be quite right, but is it fair that a man who wants justice should not be given justice, because there will be some delay? Is there any sense in it? The Honourable the Law Member knows that only a short time ago, the transfer law was changed and improved upon so much as to deter more than one application being made for transfer. Under that law several barricades have been put in the way of transfer applications. An applicant has to be bound down to make the intended transfer application or he would be fined. He has been given an opportunity to apply for transfer only once. That being the case, does the ground of this apprehended delay exist still? Is not this fear, therefore, merely in the imagination of the Honourable the Law Member and the Treasury Benches? Can it be denied that sometimes Magistrates in some cases do lose their head, or go bound by certain instructions, or that sometimes they take up an attitude absolutely intolerable, and do they mean to say that in such cases also there should be no power of reference to the High Court? Sir, that is palpably and grossly wrong and unjust. Then, as regards the powers under section 491, Cr. P. C., there again arises a legal question. Oft-times it has been admitted by the other side that the High Courts' powers under the *Habeas Corpus* Act could not be taken away by powers under section 491, Cr. P. C., having been reduced. Now, the *Habeas Corpus* Act gives more powers than those bestowed by section 491, Cr. P. C. Is it not a contradiction in terms to take away lesser powers the High Court possesses which are covered by the *Habeas Corpus*? Again, the Honourable the Law Member wants to be partial to the Chartered High Courts, as those Courts which are not Chartered High Courts cannot send for records under the *Habeas Corpus*

The Honourable Sir Brojendra Mitter: Probably my learned friend is not aware that the High Court of Calcutta has held that apart from section 491, the High Court has no powers under the *Habeas Corpus* Act. Sir, I had the honour of arguing that case.

Mr. S. C. Sen: That is a wrong judgment.

Mr. Lalchand Navalrai: Sir, I also had the honour of putting up two cases against that case in this House. He has referred to a Calcutta judgment but I quoted 50 Madras and a Bombay case against the Calcutta view.

The Honourable Sir Brojendra Mitter: We are dealing now with the Calcutta High Court.

Mr. Lalchand Navalrai: It was the Calcutta High Court, of course, from which my Honourable friend, the Law Member, secured that view. That case, however, was a case of one Judge and it was not a Full Bench case. Now, when you have two High Courts against one High Court, why is it that this Calcutta case is always trotted out and put before this House? Sir, I submit that in any event there is a difference of opinion,—and why should it be held that High Courts have no such power? Still more, if the High Court has got no powers under the *Habeas Corpus* Act, then this section in the Criminal Procedure Code must remain unaffected, otherwise it is a blot on justice, it is a blot on the Legislature to enact such an enactment. So, I submit that there is neither consistency nor any logic in the drafting of this clause 5 and I appeal to the House, specially those who are not lawyers, to give their attention and to look at it from the commonsense point of view. The House should remember that it is making a law which is detrimental to the country. It is not a communal question. It will affect everybody, be he a European, a Parsee, a Christian, a Hindu or a Muhammadan. Therefore, beware of the law you are making. I think the motion moved is a very salutary one and it should be accepted.

Then, Sir, I come to the last portion of the clause itself. A mere cursory reading will show how unjust and how unreasonable it is. It says:

“The High Court or any Court will have no jurisdiction of any kind in respect of any proceedings of any such Magistrate.”

These are too wide powers. In clause 3 (1) (a), it has been said:

“An appeal shall lie against any sentence passed by a Special Magistrate in any trial held under the local Act in the Presidency-town of Calcutta.”

I take it that this is a trial of the accused person who is before the Court and if he is sentenced, there will be an appeal; but may I ask, if in that trial the Special Magistrate takes up the proceedings against any witness or any person who is not even a witness who commits contempt of the Court and fines him Rs. 200, which he can, will there be an appeal or revision, or no? This is a question that I pertinently put to the Honourable the Law Member. As no answer has come from him, I take it that there will be none. Is that justice? I do not think I need take up the time of the House any further to bring to light the injustice that this clause will do and I fully support the amendment under consideration.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, after the elaborate argument put forward by my Honourable friend, Sir Abdur Rahim, to which I think the Honourable the Law Member practically agreed in so far as the clearness of expression is concerned, I did not think there was any necessity to take up the time of the House by making long speeches. But the observations that fell from my Honourable friend, Mr. Lalchand Navalrai, have compelled me

to offer in my own humble way a few remarks. I think he was under a misapprehension when he said that the Government Benches had made a distinction between section 107 of the Government of India Act and section 439. As a matter of fact, it was Sir Abdur Rahim who said that there was a distinction and, if my friend, Mr. Lalchand Navalrai, had referred to section 107 of the Government of India Act, he would not have raised any objection on that score. Section 107 of the Government of India Act runs thus:

"Each of the High Courts has superintendence over all Courts for the time being subject to its appellate jurisdiction, and may do any of the following things, that is to say, call for returns, direct the transfer of any suit or appeal from any such Court to any other Court of equal or superior jurisdiction, etc., etc."

Then there is a proviso that these rules shall not contravene any other existing rules, etc. It will be seen from this that the powers of revision under section 439 have not been touched by this clause at all, and, if I may say so with respect, to the later decision of the High Courts, superintendence that is contemplated is only an executive superintendence and not a judicial superintendence.

Mr. Lalchand Navalrai: Will the Honorable Member excuse me if I correct him? In section 107 of the Government of India Act, there is a power of superintendence which is general and very wide and will include powers such as are invested by section 439, Criminal Procedure Code.

Raja Bahadur G. Krishnamachariar: That is what I was trying to point out. Each of the High Courts has superintendence over all Courts and may do any of the following acts. To me it appears that these two put together exclude the exercise of any judicial act and that is the reason why the power to transfer has had to be especially provided for in clause 2. One does not overlap the other and I respectfully submit that if you take away the power under section 439, you would take away every judicial power of revision and, therefore, section 107 will not by itself help anybody. Consequently, my friend, Sir Abdur Rahim, is perfectly right in contending that the power conferred by section 107 is quite different and is very much less than what the justice of the case may require. Therefore, it is absolutely necessary if you want to take away the power of the High Court under section 439, as the Honourable the Law Member has stated that he was doing, that some provision ought to be made which will invest the High Court with power to exercise its proper and legitimate function, namely, to set right injustice and the mistakes of law and of procedure on the part of the lower Courts. I would, therefore, submit and request the Honourable the Law Member to bring his mind to bear upon this very important question and not to run away with the idea that section 107 of the Government of India Act covers the whole issue. He ought to make a provision in such a manner that the power that he says he is taking away would be restored in some other manner by which it can be exercised. That is all I have to say, Sir.

Mr. O. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, ordinarily I should not have spoken on this amendment and I had no original intention to speak either. But I must, in view of the attitude, not altogether unexpected, taken by the Honourable the Law Member, speak out once again that this is an amendment to which the Opposition attaches a great deal of importance and this is a clause to

[Mr. C. S. Ranga Iyer.]

which it takes strong exception. This is really the central point in our controversy and if this clause had not been added to the Bill, the Bill would not be so unpleasant and so unwholesome as we consider it to be. Sir, in his usual lucid manner, the Leader of the Independent Party, a great Judge once upon a time, has mentioned his own apprehensions based on his own personal experience, an apprehension shared by a very important advocate and learned Member from Sind. Our objection in this matter is the objection to the restriction of the right which otherwise would have been enjoyed by the internees under the Bengal Regulation of 1818, the Madras Regulation of 1819 or the Bombay Regulation of 1827. Nothing in section 491 of the Code applies to these Regulations of the nineteenth century. I cannot understand the Honourable the Law Member in this twentieth century bringing down the restrictions under that "rusty" Regulation, as Lord Morley described it, upon people who are to be imprisoned under this new Bengal Act. That is one consideration which the Opposition cannot altogether ignore.

The other consideration is doing away with the intermediate stages. The Honourable the Law Member conceded that in lighter sentences there will be an appeal to the Sessions Court and in heavier sentences an appeal to the High Court. I admit that he has tried to make the best of a bad job; but the job continues to be bad all the same; and, Sir, when the existing rights are being taken away under a law, we must strongly protest. As for the wording of clause 5 which the Honourable the Law Member is amending,—his is more or less a superfluous amendment, judging by the subtleties of law, but a necessary amendment judging from the necessities of this House,—I can only say that he still takes away some of the existing rights and privileges of the High Court as he makes clear in his Statement of Objects and Reasons. He excludes their jurisdiction in certain matters: to this exclusion of jurisdiction the Opposition cannot reconcile themselves. It is a matter in which we cannot agree with the Government and if the Honourable the Leader of the House had cared to consult the High Courts themselves or the High Court of Calcutta, I am sure, he will get an opinion not wholly palatable to the Government of India. I need not say further than this, that the wording of clause 5 has sometimes made us think that the law, as Dickens said, is "an ass or an idiot", however much very clever and competent lawyers might try to give it a different appearance.

Mr. S. C. Mitra: Sir, I support the motion of my friend, Mr. Sen. It is strange that the Head of the Law Department of the Government of India is anxious to leave the meaning of the clause that we frame here to the sweet will of the judges. I think it is the function of the Legislature to make distinct and clear what they want to enact. If I understood him right, the Honourable the Law Member said definitely that he was not anxious to say how much was kept reserved for section 107 of the Government of India Act and how much was being taken away under the sections in the Criminal Procedure Code for revision. He likes to leave it for the individual judges in Courts to decide; and he is going, I see, to move an amendment where he says, "provided always that nothing herein contained will affect any power of the High Court under the section of the Government of India Act which we have no right to take away by this Legislature. On a similar occasion, when the Ordinance Bill was passed

into law, he accepted a similar amendment. The drafting power of the Legislative Department seems to be improving every day. Whenever they are tackled with a question, they say "We will make a provision saying that what is not illegal is legal; and what is not taken away by this section is not taken out by this section." This sort of subterfuge, I think, should be the last function of any Legislature. We should definitely say what powers we are taking away by this present clause and what is left under section 107 of the Government of India Act. A distinguished lawyer like the Honourable the Leader of the House is hesitating, though challenged times without number by my Leader, Sir Abdur Rahim, to say what is left under that phrase "the power of superintendence of the High Court," if the rights under the revisional sections of the Criminal Procedure Code are taken away—every time the Leader of the House failed to make any point; and he left it to the people at large and to every Court to interpret it in its own way. I think we shall fail in our duty if in this clause we do not say that these are the rights that are being taken away and these are the powers left out. You, Sir, very judiciously and ably pointed out that this clause 5 was simply ridiculous and that we should not have said with our eyes open that the powers which we could interfere with should not have been interfered with; and I think you will gladly give a chance to the Honourable the Law Member to submit further amendments, if necessary, to make that point perfectly clear as to what rights of the High Court by this particular clause he wants to take out. Sir, if that is not done, I think the best way would be to delete this whole clause.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadan Rural): Sir, in spite of the amendment to be proposed by Government, this clause, as I have understood it, is open to serious objections: firstly, it interferes with the revisional powers of the High Court; then it interferes with the ordinary law of the transfer of cases; and then it takes away the *Habeas Corpus* which is of the utmost importance in these days of high-handed oppression. These are the legal grounds, and they have been ably and elaborately dealt with by my lawyer friends. I am not going to make any further observations on those points. I shall confine myself to the removal of some misconceptions of Honourable Members of this House. We are opposed to this clause, not because we plead for any leniency to the political terrorists as was stated on the last occasion by my Honourable friend, Major Nawab Ahmad Nawaz Khan, nor because we are indifferent to the activities of terrorists as was stated by the Honourable the Home Member. As to the first point, I should say that no one on this side of the House has ever pleaded for leniency to the terrorists. The only thing that we have pleaded for is that the accused person should have a fair trial, and that he should not be denied that privilege. Personally speaking, I and many other laymen of my way of thinking make very little distinction between a successful murderer and an unsuccessful murderer. It is people like my revered friends over there that make these distinctions by their nice knowledge of law. However, they have accepted this principle so far as political terrorists are concerned, but they have not accepted this principle in regard to non-political terrorists, I mean the dangerous *goondas* who infest our cities knowing full well that they are quite safe and secure under the present British Government whose attention is solely concentrated on political suspects.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): There is already the Goonda Act passed in Calcutta.

Pandit Satyendra Nath Sen : In spite of that, there are still many of them making a lot of mischief every day. I should only ask the Honourable the Home Member to judge which of these two classes of criminals are more dangerous—an accidental terrorist actuated, though erroneously, by a lofty ideal according to his own light, or the habitual murderer actuated by the meanest of motives?

As to the second point, the Honourable the Home Member asserted that we are utterly indifferent to the activities of the terrorists, our reply is that we are not at all indifferent to their activities. We read the reports in newspapers and we always shudder. In fact we are actually tired of taking an account of all these acts of terrorists committed on this side and on that side, and we confess that we have ceased to be as sensitive about these acts as we used to be five years ago. Our position is lamentable. We only pray that we should be allowed to live in peace. There is no denying the fact that most people have lost faith in British justice

Sir Abdulla-al-Māmūn 'Subrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): In the High Court also?

Pandit Satyendra Nath Sen : The other day when I was narrating the story of a girl who fell a victim to the hooligans at Chittagong, the Honourable the Home Member inquired whether that case was brought before the Court. Sir, I unfortunately, being a back bencher, failed to catch his words, otherwise I would have told him at once that such cases are not brought before Courts. People have lost faith in British justice, especially in cases where the Government are directly or indirectly interested, although there are other grounds too, namely, Indian ladies are not accustomed to bring such cases before any Court, and it will be an utter impossibility to name and identify unknown accused person or persons in a general riot in which innumerable *goondas* take part. However that may be, it is not a very important point here.

As to the clause itself, I shall be very brief. I only submit that if the Government will insist on this clause, it will remove even the least faith that still remains in the minds of some people about British justice. If a person deserves to be imprisoned, let him be by all means, but you should see that no miscarriage of justice is committed in the name of speedy trial. What is the harm if the man is sent to prison today or one month hence after the public have been satisfied that the accused person has been given a fair trial? With these words, I support the amendment.

***Mr. S. G. Jog** (Berar Representative): Sir, I had no mind to go into the velocity of this terrorist movement; whether the terrorist movement is good or bad, I have no mind to enter into the details. The Bill has been passed by the Bengal Legislative Council, and I do not wish to enter into the merits of that question at all, but I think I shall be failing in my duty if I do not rise and have a sort of revolt against the measure that is before the House in respect of clause 5. It is no doubt true that the Honourable the Law Member has suggested three alternatives which say that the operation of section 107 of the Government of India Act will

*Speech not revised by the Honourable Member.

not be affected, or some such thing. I do not think that any such alternatives are necessary. The powers which the High Courts have will still be there in spite of the alternative suggestions by the Honourable the Law Member. So there is no point in making all these three alternatives and trying to minimise the effect of clause 5 which finds place in this Bill. There has been a tendency recently in all these emergency or summary legislations to take away the powers of the High Courts. As was just observed by my Honourable friend, people in this country have been gradually losing faith in the Magistracy of British India, but people have not as yet lost their faith in the High Courts established in India, and the only hope that the public at large still have is to get justice at the hands of these High Courts Judges, but from the attempt that is sought to be made by these alternatives it would appear that the executive Government are rather afraid of these High Court Judges, and I should think it is the executive Government who have lost faith in these High Court Judges, because if any wrong is done by the executive authority, there is every chance of its being remedied in the High Court which probably the executive authorities do not want. I think clause 5 is virtually a sort of no-confidence motion in the High Courts established in India. The whole foundation of the British Empire is based and it still remains on British justice and British fairplay. If by such measures as these, you want to take the powers of the High Court, if you want to interfere with the powers of the High Courts, I think people will be justified in losing all faith in British justice and British fairplay. It is no doubt true that you say in your Notes on Clauses that:

"The provisions of this clause are not capable of enactment by the local Legislature in so far as they affect the jurisdiction of the High Court. They exclude interference of a nature likely, if exploited, to diminish the efficacy of action taken under the local Act, and are intended to ensure the speedy trial of terrorist offences"

I do not think there is any sense in the observations made here. If appeals are made to the High Courts, I do not think they will take more than a month or so to decide them, and even if the matter is delayed for the sake of justice, that will not matter at all. That delay is absolutely necessary, and whatever the measure is, if you want to proceed in the name of ensuring speedy result or for any other object, I think we on this side of the House are not prepared to agree to the retention of clause 5. I wholeheartedly support that clause 5 should be deleted, and the ordinary powers that are vested in the High Courts should be allowed to have their fair play. Rightly or wrongly the Act is there, and we have to submit to it, but at the same time any encroachment upon the powers of the High Courts, I think, we on this side of the House are not prepared to concede. With these words, I support the amendment that clause 5 should be deleted.

The Honourable Mr. H. G. Haig (Home Member): I could have wished that my Honourable friends, the Leader of the Independent Party and Mr. Lalchand Navalrai and other learned Honourable Members, had spoken before the Honourable the Law Member had addressed the House, for their learned arguments deserve equally learned replies. Unfortunately, on this side of the House we have not at our disposal the same wealth of legal talent that distinguishes the opposite Benches. They must, therefore, I am afraid, be content with the reply of a layman.

1 P.M.

[Mr. H. G. Haig.]

There seems to be some misunderstanding as to what we seek to do by this clause. We do definitely propose to take away the powers of the High Court as conferred by the Criminal Procedure Code and the Letters Patent, and to leave those general powers which are conferred by section 107 of the Government of India Act. Now, Sir, we do not concede that what we are doing will be without any effect. We think that in fact the result of this clause will be to prevent those dilatory motions which frequently are made in the course of trial for the sake of delaying disposal of cases, and that in various other respects the multiplicity of proceedings which characterise our present legal procedure will be shortened. For that we consider that there is very full justification. Most of the Honourable Members who addressed the House—except Pandit Satyendra Nath Sen—most of the Honourable Members who addressed this House omitted to remark that this procedure was directed against a particular class of offences, a limited class of offences. The argument, as it was addressed to the House from the other side, it seemed to me, was a general argument very suitable if we had been proposing to amend our normal procedure. But we are not proposing to amend our normal procedure, but only in certain special cases to speed up the decision of trials. Those cases are defined in the Bengal Suppression of Terrorist Outrages Act—cases in which there are reasonable grounds for believing that any person has committed a scheduled offence in furtherance of, or in connection with, the terrorist movement. It has been suggested that the powers that are conferred on the Magistrates are excessive, because the revisionary power of the High Court is being curtailed. But, Sir, the substantial rights of the accused remain. The accused has a fair trial under normal procedure before a Magistrate, and in every case he has a right of appeal, whether it is to the Court of Session or to the High Court. That being so, we consider that there is no danger that he will not get in fact substantial justice. Sir, I oppose the amendment.

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

“That clause 5 of the Bill be omitted.”

The Assembly divided:

AYES—28.

Abdul Matin Chaudhury, Mr.
Abdur Rahim, Sir.
Azhar Ali, Mr. Muhammad.
Bhuput Sing, Mr.
Chetty, Mr. R. K. Shanmukham.
Dutt, Mr. Amar Nath.
Gunjal, Mr. N. R.
Ibrahim Ali Khan, Lt. Nawab
Muhammad.
Ismail Khan, Haji Chaudhury
Muhammad.
Iera, Ohaudhri.
Jadhav, Mr. B. V.
Jog, Mr. S. G.
Latchand Navsrai, Mr.
Misra, Mr. B. N.

Mitra, Mr. S. C.
Muazzam Sahib Bahadur, Mr.
Muhammad.
Murtuza Saheb Bahadur, Maulvi
Sayyid
Parma Nand Bhai
Ranga Iyer, Mr. C. S.
Reddi, Mr. P. G.
Reddi, Mr. T. N. Ramakrishna.
Sarda, Diwan Bahadur Harbilas
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath
Singh, Mr. Gava Prasad.
Sitaramaraiu, Mr. B.
Thampan, Mr. K. P.
Uppi Saheb Bahadur, Mr.

NOES—55.

Abdul Hye, Khan Bahadur Abul Hasnat Muhammad.	Metcalfe, Mr. H. A. F.
Acott, Mr. A. S. V.	Mitchell, Mr. D. G.
Ahmad Nawaz Khan, Major Nawab.	Mitter, The Honourable Sir Brojendra.
Allah Baksh Khan Tiwana, Khan Bahadur Malik.	Moore, Mr. Arthur.
Amir Hussain, Khan Bahadur Saiyid.	Morgan, Mr. G.
Anklesaria, Mr. N. N.	Mujumdar, Sardar G. N.
Anwar-ul-Azim, Mr. Muhammad.	Mukherjee, Rai Bahadur S. C.
Bajpai, Mr. G. S.	Nayudu, Rao Bahadur B. V. Sri Hari Rao.
Bhore, The Honourable Sir Joseph.	Noyce, The Honourable Sir Frank.
Bower, Mr. E. H. M.	Pandit, Rao Bahadur S. R.
Burt, Mr. B. C.	Rafiuddin Ahmad, Khan Bahadur Maulvi.
Dalal, Dr. R. D.	Rajah, Rao Bahadur M. C.
Dudhoria, Mr. Nabakumar Sing.	Rajan Baksh Shah, Khan Bahadur Makhдум Syed.
Dunn, Mr. C. W.	Rastogi, Mr. Badri Lal.
Dutt, Mr. G. S.	Rau, Mr. P. R.
Fazal Haq Piracha, Shaikh.	Ryan, Mr. T.
Fox, Mr. H. B.	Schuster, The Honourable Sir George.
Greenfield, Mr. H. C.	Scott, Mr. J. Ramsay.
Gwynne, Mr. C. W.	Sher Muhammad Khan Gakhar, Captain.
Hezlett, Mr. J.	Singh, Kumar Gupteshwar Prasad.
Hudson, Sir Leslie.	Singh, Mr. Pradyumna Prashad.
Ismail Ali Khan, Kunwar Hajee.	Sorley, Mr. H. T.
Jawahar Singh, Sardar Bahadur Sardar.	Suhrawardy, Sir Abdulla-al-Mámún.
Lal Chand, Hony. Captain Rao Bahadur Chaudhri.	Tottenham, Mr. G. E. F.
Mackenzie, Mr. R. T. H.	Wajihuddin, Khan Bahadur Haji.
Macqueen, Mr. P.	Yakub, Sir Muhammad.
Meek, Mr. D. B.	Yamin Khan, Mr. Muhammad.

The motion was negatived.

The Honourable Sir Brojendra Mitter: Sir, I beg to move:

"That at the end of clause 5 of the Bill, the following *Proviso* be added:

'Provided always that nothing herein contained shall affect the powers of the High Court under section 107 of the Government of India Act.'

This amendment is necessitated by the ruling which you gave the other day and in order to clear all ambiguity with regard to what we are doing—that we are not doing anything to interfere with the powers which Parliament has conferred upon the High Court.

I do not see my Honourable friend, Raja Bahadur Krishnamachariar, here. He is under the impression that under section 107 of the Government of India Act, the High Court has only administrative powers of superintendence. Sir, that argument was adduced before the Bombay High Court in what is known as the Sholapur case and the Chief Justice held that the powers of superintendence were not limited to administrative matters, but extended to judicial matters, so that, under section 107, the High Court could exercise powers of revision. In what cases they would exercise those powers, that is for the High Court to decide. That is the point I made when I interrupted Sir Abdur Rahim, that it was not our function, but it was the function of the High Court to interpret the word "superintendence", what its scope or extent is. Recently, a similar case arose in Calcutta. The Chief Presidency Magistrate convicted a person and he went up to the High Court under section 107. The Chief Justice

[Sir Brojendra Mitter.]

of Calcutta exercised powers of revision and set aside the conviction. Sir, I am not in a position to state the exact scope and extent of the powers under section 107. There is one word more I should like to say. I find there is an amendment tabled by Sir Muhammad Yakub. If he moves that amendment, I for my part will be willing to accept it, and if that amendment is accepted along with mine, it will completely meet your ruling. Sir, I move.

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

“That at the end of clause 5 of the Bill, the following *Proviso* be added:

‘Provided always that nothing herein contained shall affect the powers of the High Court under section 107 of the Government of India Act.’”

The motion was adopted.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Sir, I move:

“That in clause 5 of the Bill, the words ‘by whatsoever authority made or done’ be omitted.”

The chief objection to this clause has been that the words “by whatsoever authority made or done” might be interpreted as meaning that this clause is purported to take away the power which is vested in the High Courts by the Government of India Act, or by some other enactment over which this House has no authority. In order to remove all these misapprehensions, I move that these words be deleted. It does not require a long speech from me. I move my amendment.

Mr. Lalchand Navalrai: I fully support this amendment. As it is, the clause is wide and liable to mischief. Therefore, I support this amendment.

The Honourable Mr. H. G. Haig: As explained by my Honourable colleague, the Law Member, Government are prepared to accept this amendment.

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

“That in clause 5 of the Bill, the words ‘by whatsoever authority made or done’ be omitted.”

The motion was adopted.

Clause 5, as amended, 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 move that the Bill, as amended, be passed.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, we have been asked to supplement the Bengal Suppression of Terrorist Outrages Bill

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Will the Honourable Member please resume his seat? The Chair would like to know whether there are any other Honourable Members who wish to speak on the third reading.

(About four or five Honourable Members rose.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The House will now adjourn to Half Past Two.

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

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

Hony. Captain Rao Bahadur Chaudhri Lal Chand (Nominated Non-Official): Sir, with your permission, I want to give a personal explanation. On Monday, the 12th, I was unfortunately absent from this House owing to an unavoidable circumstance, and, in my absence, while the Honourable Pandit Sen was speaking, he made certain insinuations while interpreting my interjection in Mr. Mitra's speech. He asserted that the Bill may not be misapplied in Bengal and gave instances of brutality in Bengal where he alleged, even the chastity of females was being violated in a most brutal and vindictive manner. He further said that when these things were being narrated the other day by Mr. Mitra, one of the Nominated Members (meaning myself) interjected by saying: "Is there no-rent campaign going on there?" He further said: "The Honourable Member evidently wanted to suggest that rent or taxes could be and should be realised by violating female modesty". The interpretation put by my Honourable friend, Pandit Sen, on my interjection was not warranted by facts and was wholly misleading and unfounded. I have got a copy of the report of the proceedings of the 3rd December which contains the speech of Mr. Mitra. His speech appears on pages 2850-55. On page 2852, after narrating certain incidents in which the chastity of women was attacked, the Honourable Member proceeded as follows:

"Now, I shall deal with cases of wanton destruction of property."

This appears on page 2852 of the report. He then narrated ten instances where property had either been taken away, destroyed or attached according to his narration. In the third paragraph of those narrations, he quoted an instance where, for the realisation of a tax, which amounted to Rs. 24-9-0, paddy weighing 920 maunds were taken away. It was after ten instances that I made the interjection that was referred to by the Honourable Pandit Sen. All these instances related to property only and not to the violation of the chastity of women or attack on women at all. There is not a word even with regard to the presence of females in those 50 lines wherein the Honourable Mr. Mitra described those 10 instances relating to property only. I naturally felt that a man who was possessed of 920 maunds of paddy which was worth over a thousand rupees should be in a position to

[Hony. Capt. Rao Bahadur Chaudhri Lal Chand.]

pay Rs. 24-0-0, as his tax, and if he did not pay it, then it meant that he was not *willing* to pay it and, therefore, I interjected and asked: "Why are people not paying this small tax when they have got this property?" That was my meaning. I never went further than that and the interpretation put by my Honourable friend, Pandit Sen, on this interjection is wholly unwarranted. Before I sit down, Sir, I have to thank you for allowing me this opportunity of explaining my position and I hope my friend, Pandit Sen, also by now must have seen the report and will now withdraw his remarks. (Applause from Official Benches.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair has taken the trouble to look into the proceedings which led to the remark which the Honourable Member (Pandit Sen) made on the previous occasion. While the Chair stands for the freedom of speech in this Assembly, it cannot allow such unwarranted and unfounded allegations to be made by one Honourable Member against another Honourable Member. The Chair is satisfied that the inference drawn by the Honourable Member, when Mr. Mitra was interrupted, was wholly unjustified. The Honourable Member should have realized that the interruption which was "Are these instances of operations during the no-tax campaign", was merely for obtaining information. The Chair, therefore, calls upon the Honourable Member (Pandit Sen) to express his regret to the Honourable Member for having made those remarks.

Pandit Satyendra Nath Sen: Sir, I beg to submit and to assure my Honourable friend particularly that nobody in this House will be more glad than myself to know and to see that the remark made by him on that occasion referred only to the breaking of furniture, etc., and not to the other series of mischief referred to there. I am very glad to assure my Honourable friend that he did not mean what I supposed he did. I express my regret and I shall shake hands with him when I meet him.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member should also withdraw his remarks.

Pandit Satyendra Nath Sen: I withdraw my remarks, Sir.

Mr. Amar Nath Dutt: We have been asked to pass a Bill which is entitled a Bill to supplement the Bengal Suppression of Outrages Act, 1932. Sir, it has passed its first and second reading and it has also been amended by the Movers of the Bill themselves. My Honourable friend, the *ex*-Speaker, has also amended certain clauses. Sir, the very title of the Bill takes one's breath away, because we have been asked to supplement an Act which has now become the law of my unhappy province which is the very negation of law. I may at once say what I mean. In Bengal, people are not living under the rule of law. I see Honourable Members not belonging to this land and who have no right to be in this land laughing. They will laugh, no doubt, because it is certainly a thing of happiness if one can be where he has no right to be and enjoys his life at other's expense. But, after all, if they had some good sense still left in them, they would have been more careful to hide their laughter and express regret. Be that as it may, I merely submit, if the whole world were for the passing of this Bill of my Honourable friend, the Home Member, I alone shall stand against him

Sir Abdulla-al-Mámún Suhrawardy: *Contra mundum*—against the whole world!

Mr. Amar Nath Dutt: *Ambulando* and such other Latin phrases may be sonorous, but I confess I have no knowledge of Latin. If I were to give before this House what we have been asked to supplement, I think no sensible man will ask us to supplement an Act like this. The Bengal Terrorists Suppression Act, which has now become law and to supplement which we are legalising here, consists of not less than 34 sections . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member must remember that the Bengal Act is not before the House and, therefore, any detailed discussion of the Bengal Act is not in order.

Mr. Amar Nath Dutt: I will not have a detailed discussion, but I will have to state things about it in order to bring out my points with reference to this Supplementary Act; and if that is not permitted . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair never stands in the way of Honourable Members giving full expression to their views. There are only one or two sections of that Act which are proposed to be supplemented. This Bill proposes to supplement those provisions of the Bengal Act which deal with legal procedure; and the Honourable Member is entitled to refer to them only. The merits of that Act cannot be discussed here.

Mr. Amar Nath Dutt: With due respect to the Chair, I may submit, that this Supplementary Act deals with respect to appeals and . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Exactly: the legal procedure.

Mr. Amar Nath Dutt: . . . and in speaking about appeals, certainly I will have to incidentally touch on matters about which the appeals shall lie and I trust the Chair will allow me to refer to that extent . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Anything that arises out of this Bill is relevant—nothing more.

Mr. Amar Nath Dutt: I must first thank the Honourable the Home Member as also the Law Member for kindly incorporating clause 3 in the Bill with which I am in full agreement; and, in fact, the Statement of Objects and Reasons which the Honourable Mr. Haig has given would at once lead us to think that it is only because the Bengal Government have no power to pass legislation which affects the jurisdiction of the High Court of Judicature at Calcutta that it is necessary to supplement that Act by an Act of the Central Legislature, to provide for appeals to the High Court in certain cases: and to exclude their jurisdiction in other matters and, as they say, the sting is in the tail, and I would have been indeed more grateful to the Honourable the Home Member if this small line had not been there. If I rise to oppose this, it is only because of that small line which has given birth to clauses 4 and 5 in the Bill before the House. About these two clauses, there were amendments to delete. I submit, it would have been well if the Government had seen their way

[Mr. Amar Nath Dutt.]

to accept the amendments and thereby to get unanimous support to a Bill for which in certain respects they deserve our grateful thanks. But what he gives in one hand, he takes away by another. Clause 3 provides for appeals. I do not know who is responsible for the framing of the draft of this clause, but here I find a little partiality shown to the Presidency-town of Calcutta which is the town of my Honourable friend, the Law Member; but he has not shown the same consideration to towns to which we humbler folks belong; and here we find in clause 3, they say, that any sentence passed by a Special Magistrate in any trial held under the Local Act in the Presidency-town of Calcutta, all appeals shall lie to the High Court; while not so in the case of all sentences passed by Special Magistrates in the mufassil. Of course this is probably a natural bias for one's own town

The Honourable Sir Brojendra Mitter: In Calcutta there is no Sessions Court; therefore, all appeals must go to the High Court.

Mr. Amar Nath Dutt: So, at times, one may be surprised; had that not been so and we in the mufassil had been given this right, there was nothing to debar him from extending the same rights which his own fellow citizens will enjoy in the Presidency-town of Calcutta and that would not have been illegal. However, I will not grudge him this right for his City; and, in spite of that, I say, that we have no objection to this; but if I rise now to oppose the passing of the Bill, it is because of these two other clauses, namely, clauses 4 and 5 which take away the rights of the injured people to have indemnity for wrongs inflicted on them by clause 4. Already the Government servants and officers know that they are exempt from all punishment. They are immune and they know that from the highest to the lowest all will come to the rescue if any complaint is made against them. That being so, to give them an assurance from before the commission of an act of aggression and tyranny and to say "Do whatever you like; there is no power on earth which can touch a hair of yours", will it not encourage more lawlessness in the ranks of those who are expected to keep law and order? I do say with emphasis that the lawlessness of the present day Government officers is almost unbearable, beginning from legislative acts which is lawless legislation, to executive acts. That being so, I submit that in spite of clauses 2, 3 or 1, I am unable to acquiesce in the passing of this Bill.

With regard to clause 5, much legal argument has been advanced on both sides by eminent lawyers like my Honourable friend, the Law Member, and an *ex-Chief Justice* of the High Court, and I will not waste the time of the House by dealing with the *ultra vires* nature of clause 5, but let me point out that the Government will lose nothing if they do not retain clause 5; on the other hand, by deleting this clause, they will keep some vestige of British justice in the land. I do not know whether they will care to do this, but I may repeat again that they will lose nothing if they delete clause 5. Further, Sir, by the enactment of this law, I may say, the terrorists will not gain or lose anything either, because the whole trend of this Bill is this. You assume in the first instance that particular individuals are terrorists according to your idea, you presume before hand, before trial, and then, according to the Act which you are supplementing, you form a Bench of Special Magistrates. It is prejudging the case. I submit, that this is a procedure unknown to any,

civilized system of judicial administration in any land, not to say of that land from which the Honourable the Home Member comes and for whose judicial system we all have the highest respect and admiration. It has often been a source of regret to us that Englishmen who are fond of liberty and freedom in their own homes should become otherwise as soon as they cross the English Channel, and this is more noticeable in their administration of India than elsewhere. I will again ask them as Englishmen to remember the land of their birth, its traditions, and its history and not to enact laws which are not in conformity with the ideas and traditions of their own land. If I am appealing to my English friends, it is because I want to point out that an Act like this was not introduced in England even under that regime known as Dora. That being so, it will be too much for friends over there to expect Members on this side to support an enactment which belies all civilized system of jurisprudence. With these words, I oppose the passing of this Bill.

Mr. S. C. Mitra: Sir, I agree with my friend, Mr. Amar Nath Dutt, in opposing the passing of this measure. We have made our viewpoint clear, and I repeat it again today, that we do not think drastic legislation is any remedy for the political distemper that now obtains in the province of Bengal. We have been asked not merely to be destructive in our criticisms, but even to suggest any remedies we could think of. I have said that the best remedy to fight terrorism is a clear declaration from Government that India will have full Dominion Status on the conclusion of the R. T. C., that there will be at least Central Responsibility, whether there is any Federation or no Federation to begin with. From the line of action that is being taken, as it is reported from day to day in the press, it would appear that the R. T. C. is more anxious to extend the Ordinance regime not to six months but to keep it permanently, and this will certainly not help in easing the situation in India. The other thing is, my friend, Mr. Sen, asked yesterday, that the rule of law should be fully established, and that is particularly the reason why we are fighting this particular piece of legislation by which the right of appeal to the High Court will be denied in future.

Sir, we know that we have a constitutional right in criminal cases to appeal to the Judicial Committee of the Privy Council. So far as I remember, never was any Indian applicant successful in getting any remedy, yet it is known how Indians still value this constitutional right that in extreme cases, not only in Civil, but in Criminal cases also, they go to the Privy Council. So it is no use arguing that you will not be curtailing the liberty of the High Court, and as the Honourable the Home Member stated in his speech the other day, the High Courts will not even entertain these applications, yet this is a right, and there is no reason why it should be curtailed by any Legislature. It has been repeatedly said that the object of speedy trial will be achieved when the Special Magistrates finish the trials. It is only a question of appeal, and so why should there be this suspicion, why should you have legislation after legislation in this House? There is some provision like the Indemnity Bills that follow martial law that the jurisdiction of the Courts, both Civil and Criminal, should be barred. If necessary, and if time will permit, I shall quote from authorities from all lands to prove how jealously the independence of the Courts has been guaranteed in the constitution of all countries. The other remedy that is not strictly relevant in this connection is about the exploitation of India. I shall not go in detail on that matter, but I shall

[Mr. S. C. Mitra.]

only say that the main reason why terrorism is making such rapid strides in this unhappy land is because of the extreme poverty, the starving condition of the vast masses of the people. There is no occupation for the educated unemployed, and it is in the interests of the Govern-

3 P. M. ment to see that the cow that supplies the milk is not killed for the mere enjoyment of having good meat for a day or two. India has tolerated every kind of government so long as she had enough to eat and clothe her nakedness, but now we have reached the extreme limit. I have digressed from the main subject, and so I leave it at that.

It has been asked, what is the true remedy for terrorism, and I tell the Government what that true remedy is. It is very easy to get palatable words and Government have enough of them from many of my friends here, but as statesmen the Government should bear with us when we draw their attention to the other side of the picture. What policy have the Government themselves got in respect of this terrorism? In Bengal, we have hundreds of young men, brilliant graduates who, in any other country, where there are manufacturing industries opened, would be well employed, but India being a wholly agricultural country, provides no scope for those youths even to get sufficient food and clothing. These young men are kept in prison for months and years, and in some cases, with only a few months' interval, they are 10 or 12 years in prison, and what plan have the Government to settle them in life? Do they realise that some day these young men shall have to be let loose on the community? Will they not add to the bitterness in the minds of these young men if they are now clapped in jail for years on mere suspicion? You will be surprised to hear that even interviews are not allowed to these young men. I personally have been refused an interview, and, again, though I have applied to the Government of Bengal some two months ago, still they do not condescend even to reply whether they will grant the interview or not. Even though we try by these interviews to argue with these young men and make them understand that in a difficult situation Government have to take to drastic laws, what plan have the Government themselves got? My Honourable friend, Mr. Sen, suggested that there should be some sort of Committee like the Rowlatt Committee to go deeper into the root causes of this terrorism. But every time the Government have got only one remedy, and that is to bring in more and more drastic laws. As I said before, I repeat what I have said. Let them have martial law or even worse than that for some time and finish with it. But when they fail, why should not they give us a chance of trying in our own way?

There is another point to be considered. Take the case of my old teacher and friend, Sir Abdulla Suhrawardy. I know that in 1912 or 1913, he was under police suspicion, and he was about to be put under Regulation III, but he was saved by the then Governor of Bengal, Lord Ronaldshay, who had great esteem for his literary attainments. At that time, I know that even from the Government of India there was pressure on the Calcutta University, and it required all the strength of a man like the late Sir Ashutosh Mukerjee to prevent his being sent out from the Professorial Chair. I remember it well. It was Mr. Sharp, the then Secretary of the Education Department, who said that men like the late Mr. Rasul, Mr. Abdulla Suhrawardy, and Mr. K. P. Jayaswal must be removed from the professorships. But, by good treatment and consideration, Sir Abdulla Suhrawardy has recently been dubbed a Knight, and he is one of the

ornaments of this House. (*Sir Abdulla-al-Mámûn Suhrawardy*: "He is still under police surveillance.") But that is the fate even of Governors, and so he cannot much complain about it.

As regards the treatment that is meted out to these prisoners in jail, an accused can be sentenced even to seven years' imprisonment by a Special Magistrate. In the case of these political prisoners, it is harder than in the case of ordinary prisoners. There is a rule in the Jail Code that prisoners with more than five years' term, if they behave well during more than half the period, should have their sentence reduced by half. But, to our surprise, in the case of political prisoners, it has all along been denied. Everybody in this House knows that a life sentence means 20 years, but when the prisoners are transported to the Andamans or outside India, the period is 14 years. But all these rules are not applied to political prisoners. I can give instance after instance, but I refrain from doing so, because there is no time to do it.

Then, the hardships of these political prisoners about classification are well known. When this House agreed to classification, after consultation with the Leaders of Parties in the House, the Home Department decided that in classification the motive of the crime should not be taken into consideration, but that the status of the prisoner, his education, mode of life,—all these should be the criteria, but in the case of political prisoners, from whatever station in life they come,—they may be respectable ladies, or Members of the Legislature, even of the Central Legislature—they hardly get "A" class. That shows that the Government are vindictive in administering this law. Nothing will be attained by vindictiveness or by drastic laws. Government may congratulate themselves on the fact that they have controlled the Congress, that they have controlled Gandhiji's action. In this House, times without number, the Home Member said that the Congress adopted the resolution commending Bhagat Singh's action. What the Congress did for the people and for the Government during the last 45 years is all forgotten, and only one fact is remembered. Even in that case, let it be said to their credit, that the Congress condemned the action of the political bomb thrower, though it said that his object was a noble one.

Coming back to the original point about the rule of law, on which ground I object to the passing of this Bill, I say, by all means have a speedy trial against the political assassin. But why should not the same strong hand of the law be applied against the policeman who also kills unarmed men? What happened at Hijli? Santosh Kumar Mitra and another detenu

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair does not wish to interrupt the Honourable Member, but wishes to point out again, as it has pointed out to Mr. Amar Nath Dutt, that this Bill deals with the legal procedure in supplement of the Bengal Act, and the Honourable Member will please restrict himself to that issue.

Mr. S. O. Mitra: I bow to your ruling, Sir. Because the powers of the High Courts are sought to be curtailed, I wanted to show how the powers of the Courts are being curtailed in every possible way and the rule of law has become a mere farce in this unhappy country. With these words, I conclude my observations.

Mr. B. Sitaramaraju (*Ganjam cum Vizagapatam*: Non-Muhammadan Rural): This Bill deprives the High Court of a large measure of power

[Mr. B. Sitaramaraju.]

which they have been exercising hitherto. If, under section 107 of the Government of India Act, the powers which the High Courts possess are exempted from the operation of this Act, it is not due to any consideration on the part of the Government, but on account of the ruling which, Sir, you gave the other day that it was not within the competence of this Legislature to deprive the High Courts of their powers under the Government of India Act. Besides the powers, which the High Courts have under section 107 of the Government of India Act, the other powers that they have are also very substantial powers and this Bill seeks to deprive them of those powers. I submit that a few months ago, when the Honourable the Law Member and we were discussing the very powers of the High Court under this section, the Law Member had himself said that it would be repulsive to any member of the legal profession to see that such powers of the High Courts were deprived. I share the same feeling, because, being a lawyer myself, I cannot but view with great abhorrence any attempt to deprive the High Courts of those powers, but I cannot agree with the Law Member as regards the necessity of taking away those powers now. Notwithstanding the assurances given by the Law Member that they held the High Courts in great esteem and that if they today found themselves driven to deprive the High Courts of those powers it was not because they held the High Court in less esteem, but because they said that there was an overriding necessity for speed. As you are aware, under the altered Bill, the High Courts still have the powers of superintendance under section 107 of the Government of India Act. I would like to ask the Government whether the powers that they have under this section would constitute in any way a greater delay than the powers which the High Courts can exercise under section 107. When once the point was conceded that it was not competent for us to deprive the High Courts of powers under section 107, and when we consider that those powers could and will be exercised, we must take into consideration also the fact that similar powers reserved under another Act could not be disposed of, because, by depriving them of those powers, the Government could not attain their object of speedy execution of law and order any more than what they have done. Therefore, I consider that this is merely an apology to say that they are going to have these powers taken away, because they want to attain speed. I consider that the real cause is that the Government are evidently unable to substantially prove the cases against some of these criminals and that they are afraid of the scrutiny of the High Courts. That seems to me the only explanation for depriving the High Courts of powers, because we know that the High Courts in this country have established a great reputation for themselves for their impartiality and even handed justice and that they are the only bulwark of a subject nation like ourselves to seek redress against executive wrongs. To take away that power today would only show that the Government are incapable of proving the guilt of the persons charged and are actually afraid of the scrutiny of the High Courts. Nobody denies the right of the Government to defend themselves and to protect the lives of the people. Nobody would say that Government should not take such action as is necessary for that purpose. They would be failing in their elementary duty if they did not protect the lives of the people. But, while we agree that the guilty should be punished, we are equally anxious that the innocent should not be punished. What security can we have other than

these powers of the High Courts to see that the innocent people are not made the victims of executive actions? Lawlessness is not a remedy for lawlessness. I believe that more outrages have been committed against Europeans under the Ordinance regime than before it. There must be some cause. What is that cause? Unless the Government can give security to the citizen that even handed justice will be done, it will be impossible for a subject nation to feel any respect for the law which they administer and if the Government are really sincere, I would like to ask this. The Ordinance Bill which we have passed would only come into force next year. During all these months, the Government of India have not elicited the opinion of the High Courts as regards these powers and when some Honourable Member on this side of the House suggested that the High Courts should be asked to express their opinion on this matter, it was refused. When the Ordinance Bill itself is to come into force next year and when it is quite possible for them to get the opinion of a few High Courts within a month or two, what necessity is there that this Bill should be passed immediately and why it should not wait till the beginning of the next year and be passed along with the Ordinance Bill if it is deemed necessary? Therefore, I consider that there is no point in saying that this Bill should be passed immediately. No case has been made out for depriving the High Courts of their powers to the detriment of justice. In these circumstances, I would be justified in opposing this motion.

Mr. N. R. Gunjal (Bombay Central Division: Non-Muhammadan Rural): (Speaking in the Vernacular, the Honourable Member opposed the motion.)

Pandit Satyendra Nath Sen : Sir, I rise to oppose the motion, although, as we see clearly, the Bill is going to be passed. This, Sir, is another illustration of the so-called "fair fight" of which the Honourable the Home Member spoke the other day and to which I made a reference in one of my previous speeches. These "fair fights" are now a frequent occurrence on the floor of this House. But those fights are between two parties placed under two totally different circumstances. On the one side, there is a band of devoted stalwarts assisted by allies won over from the opposite camp and under the able guidance of their General, and, on the other, a party of negligent pickets who are sometimes left without their Leader and whose number has now practically dwindled to about one-fourth of their original strength, and that even weakened by feuds and factions. Sir, both the Government and the people will now be in a position to heave a sigh of relief—Government, because of the fact that they are now fortified with these two Black Bills—this Bill and its predecessor, namely, the Ordinance Bill—to fight the people successfully, and the people, in the expectation that with these increased oppressions Swaraj will come soon. What the actual result will be, only the future will show. But it is clear that there will be no peace in the country for some time to come. We tried to advise the Government according to the best of our light, but they turned a deaf ear to our advice and we have all along been arguing our case before a piece of stone.

Sir, our apprehension is that this Bill will be utilised by Government as an engine of oppression and many young persons will be made victims of this Bill. We further apprehend that many civil disobedience

[Pandit Satyendra Nath Sen.]

prisoners also, who are certainly not in the good books of Government, will be challanned under this Act—I should call it an infernal Act,—which will be regarded by Government as a royal road leading to the gates of Purgatory and, with these certificates to their credit, those youngmen will at some later date be sent up to Paradise without much difficulty. Sir, we are utterly helpless and we look up to God for help. We put our faith in Him and wait. With these words, Sir, I oppose it.

The Honourable Mr. H. G. Haig: Sir, the arguments for and against this Bill have been very fully stated and we have discussed the causes and the remedies of terrorism. I do not propose to traverse that ground again. So far as I am concerned, I have nothing fresh to say to the House. Now, Sir, some of the Honourable Members who have spoken this afternoon have suggested that this Bill is contrary to natural justice and that it is inconsistent with any civilised system of judicial administration. I would just like the House to reflect that the procedure under this Bill consists in cases being tried by specially selected Magistrates not one of whom have had less than four years' experience as First Class Magistrates, and that in every case an appeal is allowed either to the Court of Session or, in the more important cases, to the High Court itself. The High Court is not excluded except in certain matters. There is in all the more important cases an appeal to the High Court.

Now, Sir, the Honourable Member who has just sat down, Pandit Satyendra Nath Sen, said that this Bill and the Ordinance Bill were measures by which the Government intended to fight the people. Sir, this measure, as I said in an earlier speech, is a small but essential link in the chain of action required for the suppression of terrorism and I do not believe, Sir, that the people of this country stand for terrorism.

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

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

The motion was adopted.

THE INDIAN TARIFF (OTTAWA TRADE AGREEMENT) AMENDMENT BILL.

The Honourable Sir Joseph Bhore (Member for Commerce and Railways): Sir, I beg to move :

“That the Bill further to amend the Indian Tariff Act, 1894, for certain purposes, as reported by the Select Committee, be taken into consideration.”

There are a number of amendments on the notice paper and I do not propose at this stage to do more than to say that the unanimous report of the Select Committee is, I submit, conclusive evidence of the extent to which the Government were prepared to go to meet reasonable representations of my friends on the other side of the House.

Sir, I move.

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

“That the Bill further to amend the Indian Tariff Act, 1894, for certain purposes, as reported by the Select Committee, be taken into consideration.”

Mr. B. Sitaramaraju (Ganjam cum Vizagapatam: Non-Muhammadan Rural): Sir, at the very outset I must thank the Honourable the Commerce Member for the consideration and courtesy which he showed to us in the Select Committee. But some of us who were opposed to the principle underlying this Bill could not discuss it in the Select Committee. With your permission, we propose to discuss the principle underlying this Bill only at the third reading of it. Sir, we have tried our best as regards the proposals underlying this Bill to see how far we could contribute to mitigate what we consider some of the evils of this measure. Within the scope allowed to us in the Select Committee, we have tried our best to adjust the margin of preference.

A perusal of the Report of the Select Committee will show that we were working under two handicaps. One was the decision of the Legislative Assembly to guarantee the stipulated margin of ten per cent. to the United Kingdom and the Empire countries and the other was the incomplete statistical information we were given as regards the industrial production in the country. To these two handicaps, I must add that we had another difficulty. That difficulty was the want of information from the Indian industries themselves. Only a few of the Indian industries were able to represent their cases either in person or by correspondence. But, in the majority of cases, we have had no information at all as regards the need and the extent to which they would require the protection. To these three handicaps I must add that we had to face two more handicaps. One was the financial difficulties and the other was the administrative difficulties. The financial difficulties were that the Customs revenue, which is the mainstay of our Budget, had to remain intact and the administrative difficulties which we had to take into consideration were the difficulties which would present themselves in the Customs houses where the Customs officers have to distinguish between the articles to which preference has been given and those to which preference is not given. Further, they had also to distinguish these articles and to determine articles liable for preferential treatment by applying rules to be now made to determine Empire contents. Under these circumstances, we endeavoured our level best to see whether the four interests which should be safeguarded, namely, those of the consumer, the taxpayer, the industrialist and the agriculturist, were adequately safeguarded. In several matters, the interest of one was in conflict with the interest of the other. Subject to the limitations I have already mentioned, we tried to adjust the margin of preference.

I always felt that this was a matter for a Tariff Board Inquiry and now I am convinced more than ever that such an inquiry ought to have been held as a condition precedent to the acceptance of the scheme, because unless we have a thorough inquiry into the matter where business houses are examined and where every information that can be brought to bear upon it is collected, and where we can possibly give such reasonable protection as our industries stand in need of, anything that we might do might render the whole thing a mere farce. Holding that opinion, I appeal at this stage to the Honourable the Commerce Member and the Government of India that they do proceed to make a full compilation of all such industrial production in the country at least, so that it may be possible for the Committee which, under the direction of this Assembly, is to be constituted, to watch the effect of this margin of preference and

[Mr. B. Sitaramaraju.]

the possible adverse effects it may have on the indigenous industries, so that they may take such suitable action as they may deem proper. I must thank the Honourable the Commerce Member for the assurance that he has given in an earlier speech that representations from any Indian industry which needs protection will receive careful consideration at his hands.

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

“That the Bill further to amend the Indian Tariff Act, 1894, for certain purposes, as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

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

“That clause 2 stand part of the Bill.”

Bhai Parma Nand (Ambala Division : Non-Muhammadan): Sir, I move :

“That in clause 2 of the Bill, in part (a) of the proposed sub-section (3B), before the word ‘produce’ the word ‘genuine’ be inserted.”

The object of my moving this amendment is a very simple one and, if we look a little closely into the matter, we will find that this amendment in fact admits of no difference of opinion, as I simply want to add the word “genuine” before the word “produce”.

In order to explain my purpose clearly, I want to go back to pre-war days. In those days, it was a matter of common knowledge that a very large quantity of chemicals that were used for medical purposes in India were originally manufactured in Germany: they were then imported into London by English factory owners, and from there were shipped out to India for sale here. I admit that there was no idea of preference in those days; but, in its place, there was another thing, namely, the prestige of name, in so far as that, English medicines or even other articles prepared in England were looked on with special favour in India for very apparent reasons; and that the doctors in prescribing medicines gave special instructions to their patients to get English drugs. In this way, the original manufacturer, Germany, got benefit from their sale to English traders and the English traders, in their turn, after labeling these very chemicals as “made in England”, sent them over to India and made their own profits.

This thing was not confined to medicines alone. In international commerce, this trick has been used very often. For instance, we know that Italy was once very famous for the manufacture of violins and its violins were sold every where at very high prices. Japan, however, made such a perfect imitation of Italian violin and sold it so cheap, that the Italian manufacturers of violins found it very profitable and convenient to buy all these violins from Japan and then labeling them as “made in Italy” sold them out to various other countries at prices, sometimes as high as ten times the original rate at which these violins were purchased from the Japanese manufacturers. What I am afraid of, is that this preference may not be abused in some such way. I do not mean to bring any charge against English producers or manufacturers of commodities, but I

want to use this amendment of mine merely as a measure of caution against any such abuse of the preferences which are likely to come in force on account of this Agreement. As far as *bona fide* English manufactures are concerned, I think we stand bound by that Agreement to give certain preference to English goods; but that does not mean that the English producers or manufacturers should take advantage of this and get things from other countries, say Japan or Germany, and resell them to us with advantage on account of the preference which they have got from us for their own goods. Therefore, where it is said that the Government of India should make rules to determine if any article is the produce or manufacture of the United Kingdom, I want the word "genuine" to be added. If that is not done, the trouble would be that India not only shall be a great loser, but shall have to compete with so many countries combined, and that our indigenous industries will not only have to give preference to English industries, but will have to subject themselves to a very hard competition practically with all the manufacturing countries of the world. To avoid this trouble, Sir, I have suggested a simple way. I do not want that we should go in any way against the trade or interest of English producers or manufacturers of commodities. And this amendment does not interfere in any way with the original principle of the Agreement; it simply aims at, as a measure of precaution, to protect Indian industries from unfair competition and the Indian trader from these international tricks that are likely to result from it. I do not want to make any further speech on the subject. The matter is so simple and clear, that I expect that the Honourable Sir Joseph Bore, who is in charge of the Bill, would gladly accept this simple amendment of mine. Sir, I move.

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

"That in clause 2 of the Bill, in part (a) of the proposed sub-section (5B), before the word 'produce' the word 'genuine' be inserted."

Mr. S. G. Jog (Berar Representative): Sir, since the time this Ottawa Agreement has been introduced in this House, there appears to have been a sort of confusion all round. When the Majority Report was placed before us, we found that they had not sufficient material before them . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is not speaking on the motion for consideration now. He is addressing the House on the amendment which the Honourable Member, Bhai Parma Nand, has put before the House, namely, the addition of the word "genuine" before the word "produce".

Mr. S. G. Jog: I quite appreciate the remarks made by the Chair, but before supporting my Honourable friend's amendment, I want to make the ground clear that the whole position is still in an unsettled state, and when we proceed further and begin to work this arrangement in practice, I think we will find that the real trouble has just begun. When we start working the whole Agreement and when the time comes for collecting the several tariffs, we will be faced with the real difficulty as to how to distinguish a genuine article from a spurious one, how much percentage there is in a certain article of Empire content and how much is adulterated, and so on. What I mean to say is that the real trouble has just begun. The formal part by the passing of this Agreement might have been finished, but the real trouble will begin now.

[Mr. S. G. Jog.]

It is no doubt true that provision has been made for rule-making power in accordance with the rules made under sub-clause (3B) for the determination of the produce and its genuineness, but even before doing that, I think the word "produce" should be qualified by the word "genuine" to start with. Then the difficulties of the administration will be very much lightened. There is always a difference between the general honesty and what is known as commercial honesty, which practically amounts to dishonesty, and when this Agreement is put into operation, many business centres will try to take full advantage of the preferences without being really entitled to such preferences. All this foul business will be brought into play when we start working the Agreement in the light of the tariff that has been introduced, and the caution that has been sounded by my friend, Bhai Parma Nand, is well worth serious consideration. I, therefore, submit that the word "produce" should be qualified by the word "genuine". Of course, by implication produce really means a real or genuine produce, but in these commercial matters I think we have to be very accurate and exact, so that there may be no ground for ambiguity. Sir, I wholeheartedly support the amendment.

Mr. B. K. Shanmukham Chetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): Mr. President, my friend, Bhai Parma Nand, is evidently under a misapprehension regarding the operation of the whole scheme of Empire preference. Probably he is under the impression that any commodity that comes from England will be entitled to get preferential treatment irrespective of the fact whether the commodity has been manufactured in the United Kingdom or not. Though the scheme of Empire preference is new to us, this has been in operation in other Empire countries for some years. Canada, Australia and New Zealand have, for a number of years, given preferences to the commodities manufactured in the United Kingdom, and, in all these schemes of tariff preference, a commodity does not get preference merely because it is shipped from the country to which preference is given. Every commodity which is entitled to preference must satisfy certain tests regarding what is called the percentage of Empire content. An article coming from the United Kingdom and which is entitled to preferential treatment under the present Tariff Act would have to contain a certain percentage of Empire content. In other words, the value of that commodity, taking the raw material and the cost of manufacture together, must represent a certain percentage of the raw material produced in the United Kingdom or of the cost of production in the United Kingdom itself. This was one of the important questions which was discussed at the Ottawa Conference, and it was recognised by the Delegates at the Conference that as far as it is practicable, rules relating to Empire contents must be uniform throughout the Empire countries; but what exactly must be the percentage of Empire content to qualify for preference was a matter on which there was considerable difference of opinion. Ultimately it was decided that the whole question must be examined very carefully by all the Empire countries, and I take it that the Government of India, in accordance with that Resolution, will get into communication with the other Empire countries with a view to framing rules which will be, as far as possible, uniform throughout the Empire. In the meantime, until such uniformity is established, we have probably to copy the rules relating to Empire contents which are in force in certain other parts of the Empire. Clause 2 of the Bill provides

for the making of the rules by the Governor General in Council with regard to the question of Empire contents, and I might tell my friend, Bhai Parma Nand, that under this clause the Governor General in Council will have to make rules defining the percentage of Empire content which alone will qualify a particular commodity for preferential treatment. The case that he mentioned of chemicals being purchased by a British merchant from Germany and re-shipped to India will not get a preference in this country . . .

Bhai Parma Nand: I said "with their own labels put on, to show that the articles were manufactured in England". That was a trick, and I want to prevent the occurrence of that kind of trick.

Mr. E. K. Shanmukham Chetty: Every commodity that is entitled to preference must be accompanied by a manufacturer's certificate certifying that it satisfies the percentage of Empire content as defined by the Governor General in Council under the rules, and I take it that the Government of India will have their own agents in the United Kingdom to check from time to time whether the certificate given under these provisions are genuine or not. Probably under the law of the United Kingdom any one who puts a false label is liable to be prosecuted. There is not the slightest danger of our being cheated in any such manner. I quite recognise that the object that my friend has in view is one which all of us have got at heart, but I would only submit to him that clause 2 which gives the Governor General in Council this rule making power is meant just to make provision for those cases which my friend has brought to the notice of this House. Under these circumstances, Sir, I would suggest to my friend that this amendment is really superfluous.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I support this amendment, and I am sorry I cannot agree with my friend, Mr. Chetty, who has just spoken. On this Ottawa Agreement, we are already groping in the dark. Sufficient materials are not before us or even before the Government to give us any assurance. This is a very small amendment which is meant to prevent any kind of fraud or cheating in practice. It may be that the Governor General in Council may make rules providing that certain quantities of the British materials should be certified, but the apprehended deception is not a misgiving only, but my Honourable friend, the Mover, has given instances to show that certain things are taken from other countries, imported into British Islands, and are stamped actually as coming from Britain. If there are such frauds going on, I do not understand for a moment why a precaution like this should not be taken. It will do no harm if the word "genuine" before "produce" is put in in the rules, because it will be a better check. I, therefore, fully support the amendment.

4 P.M.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): I agree with my Honourable friend, the Deputy President, that the amendment proposed is not needed. False labelling, as it has been called, may have been practised in former times when England was a free trade country and manufactures from Germany and other foreign countries were admitted free of tax into England and re-exported from there to other countries with the label that they were made in Britain. But, now, England is not a free trade country and there is an import duty, and that

[Mr. B. V. Jadhav.]

import duty is certainly higher than ten per cent. So, the importer in England will not purchase manufactured goods from Germany or other countries for the purpose of exporting the same to India and getting a preference of ten per cent., because in that case he will have to pay import duty into England. Therefore, it will not be found profitable for a person to falsely label "Made in England". As England is now not a free trade country, I do not think the fear entertained by my Honourable friend, Bhai Parma Nand, has any reasonable ground, and I, therefore, think that the amendment is not necessary.

The Honourable Sir Joseph Bhoré: If I oppose this amendment, it is not because I do not have sympathy with the object which I take it lies behind the amendment of my Honourable friend, Bhai Parma Nand. But my Honourable friend, Mr. Shanmukham Chetty, has explained with admirable clearness, the position in regard to certificates of origin necessary to qualify for preference. My point in regard to the amendment is merely this, that the word "genuine" is entirely redundant. It adds nothing to the meaning of the phraseology used in this clause. As a matter of fact, the rules that we propose to issue under this clause are for the very purpose of making clear what should be considered to be the produce of a country. The introduction of a word like "genuine", which is not in itself definite, would also require the insertion of an explanation to explain what the word itself means. It is for that reason, because it is otiose and redundant, that I object to the motion of my Honourable friend. The making of these rules is a matter of considerable difficulty. They must, on the one hand, not be so strict, and, on the other, not so lax, as to defeat the object of the parties to the Agreement. My Honourable friend, Mr. Chetty, may rest content that we shall bear in mind what has fallen from him in regard to this matter before the rules receive their final shape. It is on the ground of redundancy that I oppose the motion of my Honourable friend.

Bhai Parma Nand: I beg leave to withdraw my amendment.

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

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

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 and 4 were added to the Bill.

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

"That the Schedule stand part of the Bill."

Mr. B. V. Jadhav: I beg to move:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, against item No. 173 for the figures and words '30 per cent.' and '20 per cent.' the figures and words '35 per cent.' and '25 per cent.', respectively, be substituted."

Item No. 172 is as follows:

"The following natural essential oils, namely, citronella, cinnamon and cinnamon leaf. 30 per cent., standard rate of duty; 20 per cent., the United Kingdom duty; and 20 per cent., British colony."

These essential oils are differentiated from other natural essential oils. As the oils, citronella, cinnamon and cinnamon leaf, are not manufactured in India, I am not at all concerned with them, but the other essential oils are manufactured in India, their manufactures are likely to grow and, therefore, that industry deserves some encouragement. At present the rates are 30 per cent., and if a ten per cent. be given as preference, then the duty will be 20 per cent. and the British goods will come in very severe competition with Indian made goods and, therefore, the manufacturers of these goods may suffer. Hence I propose that the duty should be raised higher. I am not against preference to British manufactures, but I want to preserve the advantage which the manufacture of essential oils at present enjoys, namely, 25 per cent. Therefore, I propose that the standard rate of duty should be 35 per cent. in the case of goods from all other countries and 25 per cent. in the case of goods from England. Sir, I move,

The Honourable Sir Joseph Bhoré: Sir, I would like at the outset to say that not only the commodity covered by this amendment, but those covered by every single amendment notice of which has been given were most carefully considered by the Select Committee and this case illustrates very clearly the difficulty of making a proposal without examining most carefully all its repercussions. As regards natural essential oils, I would point out to my Honourable friend that the consideration which operated very strongly in the minds of the Select Committee was the fact that these essential oils were largely used in manufacture. For instance, they are used in the manufacture of soap, perfumery, etc. We, therefore, felt that it was unwise to put the duty up on what was really a raw material of manufacture. Then, again, I would point out to my Honourable friend that there is the synthetic oil which is imported into this country and if you raise the duty on the natural oil and the synthetic oil comes in at the lower rate, it is going to compete very unfairly. For these reasons, the Select Committee, after careful consideration, decided that balancing all the interests concerned it was wiser to leave the figures at 30 and 20. I hope, in these circumstances, my Honourable friend will not press his motion.

Mr. B. V. Jadhav: I do not want to press my amendment.

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

Mr. K. P. Thampan (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, I beg to move:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, item No. 176 be omitted and in the proposed Part IX, after item No. 224, the following new item be inserted:

‘SEEDS.			
225	Oilseeds, non-essential, all sorts not otherwise specified, including copra or coconut kernel.	<i>Ad valorem.</i>	35 per cent. 25 per cent.’”

[Mr. K. P. Thampan.]

Though this item deals with oilseeds in general, the most important and the one to which this amendment refers is what is called copra. Copra is the dried kernel of coconuts from which coconut oil is extracted. It is largely used for edible and toilet purposes. In the West Coast of India, in South Canara, Malabar, Cochin, and Travancore, industries connected with coconut in one form or other, play a very important part in the economic life of the people. There is the coir industry, the manufacture of copra and coconut oil and, lastly, the tapping of coconut trees for making toddy and sugar. These are the industries connected with coconut oil. You will bear with me, Sir, when I explain the importance of the subject in detail.

The area under coconut cultivation in India, according to the agricultural statistics of 1930, was one million 377 acres. Most of it is in South India where the acreage is one million 299 thousand acres. The industry is, therefore, practically confined to South India. Half of this is in Native States, mostly Travancore. Cochin and Mysore also contribute a little. In the year 1920, the acreage under coconut cultivation was only one million 201 thousand. You will, therefore, see that within the last ten years there has been an increase of one million 76 thousand acres under coconut cultivation. There is still considerable scope for increasing the coconut cultivation, though it must be said that the low lying parts of the plains of the sea coast are practically fully covered by coconut cultivation. For a distance of 30 miles from the sea coast, you can cultivate coconut even on hills and mountains. In North Malabar, particularly in Quilandy and other places near Tellicherry from where my friend, Mr. Uppi Saheb, comes, you can cultivate coconut even to a distance of 40 miles from the sea coast. It thrives very luxuriantly there. That is why I say, there is still considerable scope for expansion of the cultivation of coconut. What I wish to emphasise upon is, that this industry affects the happiness and welfare of more than 18 millions of people. The population of South Canara is more than two millions. That of Malabar is three millions and odd, Cochin and Travancore have more than six millions. People in the borders of Mysore also depend upon the cultivation of coconut. So, there is a large population which is dependent on the industries connected with coconut. The subject is not a thing which can be lightly ignored. On the West Coast, the most important source of income to the ryots is the coconut tree. To understand the question, in all its bearings, it is necessary to examine in some detail the economic condition of the people concerned. In Malabar, the resettlement was brought into force last year. Though, under the rules of the settlement, only 18½ per cent. is the maximum increase which the Government can make at the time of a resettlement, the effect of the rules and other things has been such that the increase works out at nearly 50 per cent., because they change the classification and taram of a garden or holding and increase thereby the rate of assessment. I shall refer to a particular instance of mine.

A garden, for which I used to pay Rs. 7½ hitherto, has been by a trick of, what I may call, an administrative legerdemain, assessed to Rs. 50, that is more than 700 per cent. I preferred an appeal to the Revenue Board with no effect. The settlement was introduced last year in defiance of public opinion at a time when there was acute financial stringency all over the country. In the Madras Legislative Council, our representatives

were able to pass a Resolution requesting the Government to hold over the introduction of the new settlement until the economic condition improved. The Resolution was passed with an overwhelming majority. Still, the Government did not give effect to it. While the land revenue was increased by 50 per cent., the income of the ryot decreased considerably from all sources. With the prohibition propoganda going on in the country and with effective picketing, people are not allowed to give the trees for tapping, with the result that their income from that source has considerably gone down. The price of the coconut itself has depreciated by 100 per cent. to 120 per cent. I was myself selling coconuts two years ago easily at Rs. 60 a thousand. Last year it was only Rs. 25 a thousand. That is the plight to which the ryot is reduced as regards his income. But, with the direct and indirect taxation, the cost of bare necessaries of life has not in any way decreased, and the problem of existence has thus become really very difficult for him. Under such circumstances, I maintain, our duty is to safeguard and protect his interests and not add to his difficulties.

Another item connected with the coconut industry, with which this Bill deals, is the coconut oil. All aspects of the subject were completely threshed out in the Select Committee, and I must take this opportunity to express my thanks and gratitude to the Committee and to the Government for accepting my suggestions with regard to the coconut oil.

Copra is equally important, if not more, from the producer's point of view. Sir, the Bill, as drafted and recommended by the Select Committee, proposes to fix a 20 per cent. *ad valorem* duty on colonial and 80 per cent. on foreign imports. At present the ruling rate is 25 per cent. In other words, the Bill aims at reducing the rate from 25 to 20 per cent. so far as the colonial cultivator is concerned and increasing it to 30 per cent. against foreigners. My suggestion is that the present duty of 25 per cent. might be continued for British products and 35 per cent. be fixed for the products of foreign countries, and thereby maintain the principle of preference underlying the Agreement adopted at Ottawa. Sir, Ceylon is the only country that imports copra into this country and competes in this matter with our indigenous product. Of course, there are one or two other countries also, but their import is nominal and they may be ignored from consideration, and, for the purpose of our discussion, it would be sufficient if we restrict ourselves to Ceylon. Let me, again, quote some figures. In the year 1930-31, we imported from Ceylon only 58 tons valued at Rs. 21,000. But then, in the next year, namely, in 1931-32, we imported 1,248 tons valued at Rs. 2,20,790. The figures for 1932-33 are not available here; but, I am told the increase in 1932-33 has been phenomenal. I am indebted for this information to a Ceylon newspaper, namely, the *Ceylon Daily News*, published in Colombo. I find in its issue, dated 19th November last:

"The value of the exports of copra from Ceylon to India in 1931 was only Rs. 1,64,423. For the ten months ending October 31 of the present year the value of copra exports from Ceylon to India had reached Rs. 20,63,920. In October alone, copra to the value of Rs. 7,95,803 was exported from this country to India. The figures for coconut oil are even more impressive. In the memorandum addressed by the Indian Merchants Chamber to the Government of India, it is pointed out that India's imports of coconut oil had risen from 130,241 gallons in the first six months of 1930 to 3,035,516 gallons in the first six months of the present year."

This is indeed a phenomenal increase, which neither the Government nor any commercial organisation has cared to explain. It might be an

[Mr. K. P. Thampan.]

accident, perhaps owing to the failure of crops in South India during the last two years and, God willing, old conditions could be revived. Sir, what I wish to impress on the House and lay emphasis upon, is that this increase has taken place under the present tariff duty of 25 per cent. So there is no necessity whatever, so far as Ceylon is concerned, for reducing further that rate. If there is to be a further reduction to the extent of five per cent. as contemplated, the increase in imports is bound to be more. More and more copra and coconut oil will be dumped into this country from Ceylon to the ruin of our own producers. Now, the considerations which weighed with the Select Committee in rejecting my suggestions were two. In the first place, it was said that there had been a great demand from the oil industries for the reduction of the duty, and then, the interests of the consumers have to be considered and protected. I submit, that so far as the mills are concerned, they are run by capitalists, and they are not in need of any particular help. They can purchase the copra at the present market rate, put on the working expenses and still sell at a fair selling price. There is no difficulty; and, after all, this five per cent. is not very much, so far as the millowners are concerned. Now, with regard to the interests of consumers, you will excuse me, Sir, when I say that it was not evinced and was not a factor which weighed with this House when either the protection to the steel industry, or the protection to the textile industry and, recently, after I came here, the protection to the sugar industry or the protection to wheat cultivation was passed. If the interests of the consumers in this country were any criterion at all, these were all waived and conveniently ignored in the Bills granting the aforesaid protection. From where did the sympathy develop all on a sudden? And so far as the consumers themselves are concerned, the price of coconut oil has been reduced by half during the last two or three years. This five per cent. will add only one anna to a gallon or two pies for a bottle of coconut oil. That is only nominal and the House, I submit, need not bother about that. Now, the paper, from which I read a little while ago, goes on saying that:

"So far as Ceylon is concerned, nothing would be more welcome to the coconut industry than the abolition of the Indian duty on copra. Such a step will not only bring more money into the pockets of the producers, but will also give a fillip to the demand for copra in India."

—as if we are anxious to have Ceylon copra. They say that the abolition or partial reduction of five per cent. will go a long way to help the Ceylon producers. Why should we go out of our way to help Ceylon producers, to the detriment of our own cultivators is a point which I cannot understand. On the other hand, a five per cent. increase in the price of coconuts will go a long way to alleviate the condition of the ryots of our own country. Such a thing is not without a precedent, as, every one is aware, this very Assembly has passed a duty on imports of wheat, in the interests of the agriculturists of the Punjab. Sir, am I to understand that simply because there are about 20 Members from the Punjab, all very influential and vociferous men who could bring their influence to bear on the Government, that that Bill was passed, and that we, coming from the West Coast, are few in number, my proposal is turned down? That cannot be. Sir, agriculturists are agriculturists everywhere and they stand in need of help everywhere. What is good for the Punjab agriculturist must also be good for the Malabar agriculturist. The reasons and the logic of the Committee

in arriving at their conclusion are beyond my comprehension. My suggestion is not to add anything; I only want that the present rate should be continued. People are already considerably agitated over this matter judged from the several telegrams I have received. The Malabar Chamber of Commerce at Calicut asked me to oppose the Bill throughout. I shall read two messages I received yesterday. The telegram of the Jnanodaya Association at Tellicherry runs thus:

"Malabar coconut industry hard hit by Ceylon competition. Travancore Legislative Council adjournment motion allowed to discuss dumping Ceylon copra in Travancore. 20 per cent. duty inadequate. Jnanodaya Association of coconut agriculturists tappers pray raise duty 30 per cent. Prohibition propaganda killed tapping industry. Copra only other income."

Then, Sir, the telegram of the Travancore Chamber of Commerce at Alleppey says:

"Travancore Chamber of Commerce urgently press for retention of present import duty on copra and coconut oil at 25 per cent. for Empire products and for increase to 35 per cent. for non-Empire. Any lowering of import duty will be economically injurious to Indian producers of copra and oil. Chairman."

When people get to know the full import of this, there will be a great agitation all over the place.

Before I sit down, Sir, I will appeal to the Government with all the emphasis I can command to give due consideration to this matter. The Honourable the Commerce Member is himself a landholder. He was at one time the Dewan of Cochin, where there is a large population of coconut growers. I hope he can easily realise their troubles. I hope he realises what blessing, what boon he can confer on them by accepting this amendment. Sir, I am told that he is going shortly on a tour to South India, to Cochin and other places. If he goes there, he can make personal inquiries regarding this matter. Let him first satisfy himself that it will not be a hardship on the people concerned, and then he may do what he thinks fit. The rules permit it. Until and unless he is so satisfied, I would strongly appeal to him to keep the present rate by accepting my amendment.

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

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, item No. 176 be omitted and in the proposed Part IX, after item No. 224, the following new item be inserted:

SEEDS.			
225	Oilseeds, non-essential, all sorts not otherwise specified, including copra or coconut kernel.	<i>Ad valorem.</i>	35 per cent. 25 per cent."

Mr. Uppl Sahab Bahadur (West Coast and Nilgiris: Muhammadan): Mr. President, I rise to support this motion. Mr. Thampan has very plainly told the House the present condition of the agriculturists in my country, and the Honourable Sir Joseph Bhore very well knows the part which the coconut industry plays in the economic life of Malabar. The whole wealth of Malabar depends upon coconut and coconut alone. Sir, it has been said that the Ceylon Government were trying to get the present tariff duty reduced. The price of coconut in Ceylon had fallen very

[Mr. Uppi Saheb Bahadur.]

low and they were trying to find a market in India. But, fortunately for us, the Government did not find their way to reduce the present tariff.

Sir, Malabar has been supplying all these years coconut to the whole of Southern India and also to the Punjab and Sind and, I think, also to Central India. Now, if the duty is reduced, as is proposed, the result will be a sudden fall in the price of coconut. Large quantity of coconut is now lying in Malabar. Only three or four years ago, the price of fresh coconut per thousand was Rs. 40 or Rs. 50 and now it has gone down to Rs. 20 or Rs. 30. The result is that the condition of the poor agriculturists has become miserable. In a recent issue of *The Hindu* I saw that an agitation had been set on foot in the Travancore State to prevent the dumping of copra and coconut from Ceylon. Mr. Thampan has already supplied the House with the figures showing the rise in the imports from Ceylon. Sir, I am very much afraid that this reduction of five per cent. will kill our coconut industry and it will hit the Malabar agriculturists very hard. The agricultural system of Malabar is peculiar to itself. There are small plots of land owned by various people, the products of which they sell in the markets. If the price of coconut falls, certainly these people will suffer heavily. Sir, this is not the protection of a key industry like the Tata Iron and Steel Works or the sugar industry, but it affects millions of poor people. If the protection given to the Tata's is removed, only certain shareholders and certain millowners may suffer and, perhaps, our Indian steel industry might also suffer. But, if the protection to the coconut and copra is removed at this juncture, it will hit the population of Malabar very badly. As it is, the present settlement that is going on there is hitting the poor tenants and the poor landowners very badly. So, at this juncture, if this protection were also to be removed, starvation and ruin will be the only result. So, I do not believe that our cry from far off Malabar will be a cry in the wilderness in this House. I hope and trust that our Northern India brethren and our Madras brethren will come to our rescue and save us from dire calamity which is staring us in the face. They will help us to keep this industry going and to save our agricultural population from starvation.

Some of our Indian gentlemen have asked whether our copra is sufficient. Sir, even now it is sufficient to supply the requirements of the whole of India. In fact, there are no buyers. I am not myself an industrialist; I am only an agriculturist and, therefore, I cannot supply with exact figures of the quantity of copra that is produced and the exact requirements of India. Anyhow, the industrialists always go in for cheaper goods. In Ceylon, the price of copra has gone down to a very low level and if that copra and coconut is allowed to come into India, the result will be that there will be a sudden fall in the price of the Indian coconut or perhaps there may not be any demand at all for Malabar coconut and copra for sometime. It is for these reasons that we are now asking for protection. We want merely to retain the protection we have been enjoying, namely, 25 per cent.; and it will be to the interests of Government also to raise the foreign duty to 35 per cent. In order to help a country which has come to a certain agreement with some other country, are we to give concessions? We have not come to any agreement with the Ceylonese Government. We have come to some agreement with Great Britain and, in order to help a country which has allied herself to Great Britain, are we to suffer? I do not know whether, the Ceylon Government, will agree, unless we approached her through Britain, to permit us to import our products

into Ceylon. That is a matter yet to be seen. I can understand our giving some concession to Great Britain, but not to people who have been allied to her by some attachment or relation. I do not know whether I am right; but I understand that we have not come to any agreement with dependencies of Britain such as Ceylon; and, now, because we are giving Great Britain some concession, we will have to give concession to Ceylon in an indirect way. I am willing to be corrected if Mr. Chetty will enlighten me on that point. So, what I say is, protect our industry; at the same time, you can keep the word of your Agreement: raise the other duty by ten per cent. Sir, I support the motion.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhamadan Rural): Sir, my friend, Mr. Thampan, who represents Malabar in this House with great ability has naturally taken up the question affecting the district to which I have the honour to belong. Even from a purely political point of view on the eve of a general election, if a political cobra were to be let loose against Mr. Thampan, he can win the election on the copra. (Laughter.) But it is not as an election stunt, but as a purely agricultural problem that he has been discussing the copra question before us. A flood of copra pours into Malabar from a British colony and even though our industrialist friends in the neighbourhood of Malabar, like Mr. Chetty—in a fast motor I can reach his house from mine in an hour—even though they are so close to us, they hate their neighbours, they do not even love the copras. (Laughter.) The industrialists say that copra is the raw material for the making of coconut oil; therefore, the tariff wall against copra should be lowered in regard to a British colony. But the contention is that Malabar produces an adequate amount of copra for the coconut oil that is made in this country. I recognise that the tariff wall is heightened against coconut oil from Ceylon and a large quantity comes from Ceylon; and, in this matter, I admit that the Honourable the Commerce Member and other members of the Committee were quite conciliatory; they did not want the Ceylon oil to compete unfairly with the Malabar or South Indian oil. At any rate to some extent they gave relief, but we were not satisfied. I miss my friend, Dr. DeSouza, who warmly supported us and took up a very strong attitude in the matter. We are grateful to the Select Committee for having mentioned our difference in this particular matter in the body of the Report. I have nothing more to add than this: that Mr. Thampan has made an exhaustive case on the subject, and Mr. Chetty, with all his eloquence, cannot meet Mr. Thampan's case if he were to proceed purely on facts—and not fiction—that some Coimbatorean economists delight to indulge in. (Laughter.)

The Honourable Sir Joseph Shore: Sir, in the privacy of this Chamber I confess to a sneaking sympathy with my friend, Mr. Thampan. I have lived for many years on the West Coast and I know the importance of the coconut tree and all its products in the economy of West Coast life. But though Mr. Thampan is my friend, truth is my divinity. Mr. Thampan has, I think, placed the case quite fairly. I think he will agree that the Select Committee considered this matter with some care. Through his able advocacy, I may say, the Select Committee were converted to the view that in the case of coconut oil, the preference should be given by raising the duty entirely upward. So far as copra was concerned, I think he will admit that the reason which influenced the Select Committee not to recede from the figures originally entered in the Schedule, namely, 20 and 30,—the reasons which led them to that view were fairly considered. As Mr. Ranga Iyer has pointed out, the reasons were that it is the raw

[Sir Joseph Bhore.]

material of an industry—not merely the oil-expressing industry, but incidentally to some extent at any rate of the soap industry and of the industry which is now manufacturing what is known as vegetable products in this country. On one point I ought to join issue with my friend, Mr. Ranga Iyer, and that is this: he suggested that we produce all the copra that is necessary for the use of the industries I have referred to in this country. That, I do not think, is the case. At any rate we have received the very strongest representation to the effect that the copra produced on the West Coast and in India is not sufficient to meet the demands of these industries. The real point, as it appears to me, is this: until 1931, the ordinary revenue rate of duty was 15 per cent. on copra. Until then, as far as I know, we had received no complaints in regard to the competition of Ceylon copra. Even now we are not proposing to go below 20 per cent.; and, to my mind, it appears that a protection of 20 per cent. is considerable when you remember that it is a raw product with which we are dealing. Unless my friend, Mr. Thampan, can show why it is that the raw product in this country, namely, copra, with a protection of 20 per cent., cannot compete with the imported article from Ceylon when all the natural conditions, as far as we know, are similar, unless he gives satisfactory reasons to show why that is the case, I fear we must adhere to the decision of the Select Committee. With much regret, therefore, I am afraid, I must oppose his amendment.

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

“That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, item No. 176 be omitted, and in the proposed Part IX, after item No. 224, the following new item be inserted:

‘SEEDS.			
225	Oilseeds, non-essential, all sorts not otherwise specified, including copra or coconut kernel.	<i>Ad valorem.</i>	35 per cent. 25 per cent.’”

The motion was negatived.

Mr. B. V. Jadhav: Sir, I move:

“That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, against item No. 181, for the figures and words ‘30 per cent.’ and ‘20 per cent.’ in columns three and four, the figures and words ‘25 per cent.’ and ‘15 per cent.’, respectively, be substituted.”

It is well-known that since western medical science was introduced into India, western medicines have also invaded this country, and year after year, as a result of the products of the various Medical Colleges in all parts of India, large numbers of graduates are coming out and are beginning to practise in various cities and towns. Almost all of them receive their medical education in the allopathic system, and the medicines they generally use are imported from western countries, especially from Germany and England. This has gone on for a number of years, but during the last Great War it was found that the drug making industry ought to be established in India and that India ought to be independent

of supplies of medicines from foreign countries. Every one remembers what high prices had to be paid for such necessary remedies as santonine and quinine. They were almost unprocurable and, therefore, many inferior substitutes were used to the great detriment of the health of the children of this country. So, it will be evident that in the case of medicines and drugs India ought to be independent and produce the necessary medicines she requires.

In various parts of the country, factories are rising up and medicines and drugs are being manufactured. In Bengal, there are a number of factories and their products are sold all over the country with great success. Bombay does not lag much behind in this matter, although, it must be admitted, she does not lead. They have generally to compete with the imports from Germany and England. This invasion of medicines is not confined to the allopathic remedies alone, but, even in the Ayurvedic field, Germany has begun to invade. I may point out that the most costly and important medicine known as *Makaradhwaja* is now manufactured in Germany by the famous firm of Mercks and imported into this country, and while the *Makaradhwaja* made in India is sold at so high a price as Rs. 60 and Rs. 70 a tola, Mercks *Makaradhwaja* is available at retail shops at Rs. 4 per tola. In this way, foreign medicine is competing not only, as I observed, in the allopathic medicines, but also in the indigenous remedies of the Ayurvedic and Unani systems. The Homœopathic remedies are also being imported from Germany and America in very large quantities and they are competing with the products of the factories started here. . . .

Mr. R. K. Shanmukham Chetty: Your amendment wants to reduce duties still further.

Mr. B. V. Jadhav: So, Sir, I think Government ought to do something to give protection to these indigenous industries and they should try to at least keep up the duty that is at present levied.

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

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, against item No. 181, for the figures and words '30 per cent.' and '20 per cent.' in columns three and four, the figures and words '25 per cent.' and '15 per cent.', respectively, be substituted."

Mr. R. K. Shanmukham Chetty: Sir, for the admirable reasons mentioned by my friend, Mr. Jadhav, I oppose this amendment.

Mr. B. V. Jadhav: I wish to withdraw my amendment, Sir. The amendment was, by leave of the Assembly, withdrawn.

Mr. B. V. Jadhav: Sir, I move:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, against item No. 183, for the figures and words '30 per cent.' and '20 per cent.', the figures and words '35 per cent.' and '25 per cent.', respectively, be substituted."

India was noted in olden times for its fine steel and cutlery, but now things have changed, and we have been depending upon foreign countries even for the necessary articles. But, latterly, factories have been started in various parts of India, especially in Northern India, and knives and forks,

[Mr. B. V. Jadhav.]

and so on, in Hathras and other places are made in large quantities. The cutlery of Dayalbagh near Agra is well known and they produce very fine articles. At the same time, I may point out, that they cannot

5 P.M. compete with the very big manufacturing houses of the West, especially Germany and England. Therefore, the protection that was given by the tariff in India ought to be continued for some more time in order to provide sufficient respite to this Indian industry to be able to compete with the foreign competitors. The question of the nascent industries is a very important one. India has been an agricultural country so far, but we have seen that the prices of foodstuffs and other agricultural produce have abnormally gone down and, therefore, there has been a good deal of unemployment and a good deal of starvation in the country. If the financial and monetary condition of India is to be improved, the Indian industries must grow and give employment to a larger number of persons than they have been doing hitherto. For this purpose, small factories for producing useful articles ought to be erected in all parts of India and they ought to be encouraged by suitable tariffs. This cutlery industry is one of these. The industry can be started here and, with sufficient encouragement and care, it can hold its own in a number of years. Therefore, the protection that was given by the former tariff ought to be continued even against England. By this amendment I propose that the tariff now in existence ought to be retained against England and that a higher tariff by ten per cent. ought to be levied on articles from other countries. Sir, I move my amendment.

The Honourable Sir Joseph Bhore: Sir, this is also one of those cases which were very carefully considered by the Select Committee and their reasons for retaining the preferential and the standard rates at 20 and 30 per cent. were mainly three. First of all, it should be noted that no application has ever been received by the Government of India from this industry for protection. Secondly, no representation was received either by the Government of India or by the Select Committee or by the Committee appointed by this House, in regard to this particular industry. Thirdly, the cutlery industry in India is mostly confined to articles which are not competitive with the imported article. I ought also to add another reason and that is this. The United Kingdom share of imports of cutlery into this country amounts to only 25 per cent., so that raising the duty to 25 and 35 per cent. would impose an unnecessary burden on the consumer. It is for these reasons that the Select Committee came to the conclusion that the rates originally entered should be maintained, and, I am afraid, I must oppose my Honourable friend's amendment.

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

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, against item No. 183, for the figures and words '30 per cent.' and '20 per cent.', the figures and words '35 per cent.' and '25 per cent.', respectively, be substituted."

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 15th December, 1982.

APPENDIX.*

Mr. N. R. Gunjal (Bombay Central Division: Non-Muhammadan Rural): Sir, I emphatically oppose the third reading of the Bill. This Bill and all its clauses will be a tool in the hands of subordinate Government officials, who will be entrusted with the administration of the law, to practise oppression on innocent and respectable people. This Bill has, moreover, crippled the powers of the High Courts. The general consensus of opinion expressed through the Press or otherwise has definitely been against the Bill; and my province, the Maharashtra, is no exception. Such oppressive laws are sure to crush the popular leaders fighting for the national cause, and religious institutions like the Masur Brahmacharyashram and those of other kinds. In spite of the fact that the Third Round Table Conference is in session in England, and taking advantage of the opportunity that they can at present command a majority in the Assembly, the Central Bureaucracy have brought forward this Bill. Sir, "divide and rule" is the British policy.

Sir, as remarked by the late Lokmanya Tilak, such unjust laws may have some control over the body, but they can have none over the mind. The great poet of India, Rabindranath Tagore, has altogether been outside the field of politics, but he is also gradually becoming alive to the reactionary character of this law. He has the following opinion of such laws:

"It is no difficult job to heap mountains of oppression and tyranny on people who have been cowed down by defeat and are in a helpless condition."

But, Sir, tyranny is sure to lead its authors to a moral degradation; and I, on behalf of my countrymen, warn Government—beware of this moral degradation. Government are damaging the very foundations on which they stand by extermination of the independent institutions in the country. Government, no doubt, Sir, have got unlimited powers; it is no wonder that they should feel satisfaction over it. What I have to say is this, that moral force also is as valuable as the physical force. My countrymen are, no doubt, powerless to oppose oppression, but nobody can take away the power of the people to withdraw the moral support on which every Government must stand and which fact will be recorded in the history of the land.

I should also like to mention the views of Lord Asquith on the point; he says:

"Whenever there arise discontent and huge agitation amongst the public in a country, that is an indication of the existence of a *bona fide* difference of opinion between the public and the Government; and only good-will and not repression is the remedy on such occasions. Therefore, repression should not be resorted to; democracy should be established."

Political Pandits, like the late Lokmanya Tilak, have defined Government in some such way: Big men tell us that Government is an abstract noun in the neuter gender and, like God, its actions are guided without

*Vide page 2846 of Legislative Assembly Debates, dated the 3rd December, 1932.

motives; but just as God has the shackles of *Maya*, so is Government restrained by persons who have control over its affairs; these persons, like other human beings, are subject to human passions; and it is the experience that these people dim their own and Government's vision and lead it astray.

It would not be out of place to note the views of the late Honourable Mr. Gokhale on this point: He says that the Government for the time being profess that their ways are moral and their trusteeship of India is based on moral grounds and that they govern the country for the good of the people; but whenever the bureaucracy, entrusted with the administration of the country, is prone to pass repressive laws, counter to the national aspirations, the people will not be much in the wrong if they call such bureaucracy as unjust and tyrannical.

Several rulers, like *Ravana*, ruled in Hindustan and especially in the City of Delhi, and whenever ill counsels of the Ministers prevailed, oppression went to the length of imprisoning all the thirty-three crores of gods. The inevitable consequence was that even the powerful kingdom of *Ravana* became extinct. These historical events should not be overlooked.

Sir, the Honourable Mr. Haig gave us to understand that this law was to remain in force for a period of three years only and that thereafter the democratic form of Government was to be established in the country and there was, therefore, no reason to be afraid of. The argument seems to me very peculiar. That the British bureaucracy should dream so, is, no doubt, a happy augury.

Three years more and the Britishers will lose their sway over thirty-three crores of Indians. The prospect is, no doubt, disconcerting to them. But there seems in this a sign of Divine intercession, and a popular representative like myself should not at all be sorry over it. A number of amendments to this Bill were moved, clause by clause, and the Honourable Mr. Haig has personally heard all the discussion on them. He is counting on the difference of opinion among the Non-Officials and is, therefore, convinced of a safe passage for the Bill. It is apparent that the popular party in the House is in the minority at the present moment and that the Bill will surely be passed. But the Honourable Mr. Haig should take note of the fact that the opinion in the country is behind that party, although they may for several reasons be in the minority at this time. An ancient instance in point, Sir, belongs to the times of the Lord Shri Krishna. The *Kauravas* then formed the majority party, and the *Pandavas* the minority party. But the majority opinion in the country favoured the *Pandavas* and ultimately they became victorious and the throne of Delhi came to their possession.

Superior bureaucrats of the type of the Honourable Mr. Haig are fed at the cost of India; their salaries are not drawn from the Western countries. The Honourable Mr. Haig should bear in mind that we are the masters of India; Hindustan is the motherland of Indians; and although repressive laws like the Ordinance Bill are passed, we cannot be compelled to leave this land; it is the British bureaucracy who have got to leave it bag and baggage. I should advise him not to pass this repressive measure;

otherwise, he will be responsible for the sin of weakening the power of the British bureaucracy in India.

I would, at the same time, urge on the popular representatives in the House strongly to oppose this oppressive law. They should put into execution the promises made by them to the people at the time of their election. Sir, I should like them to consider that if they do not do that, there are few chances for their re-election. It is not at all becoming on the part of a representative of the people to make promises of safeguarding the interests of the people at the time of the election and, when once elected to the Assembly, to help the Government at such critical junctures. I warn them against such a sin. This Bill will create a situation whereunder the master gets roasted gram, while the servant gets *laddoos*. With these words, I strongly oppose the Bill. :