

Thursday, 24th November, 1932

**THE  
LEGISLATIVE ASSEMBLY DEBATES**

**(OFFICIAL REPORT)**

**VOLUME VI, 1932**

*(7th November to 28th November, 1932)*

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**FOURTH SESSION**

**OF THE**

**FOURTH LEGISLATIVE ASSEMBLY,**

**1932**



SIMLA  
GOVERNMENT OF INDIA PRESS  
1933

*est. B. L. A. N. H.*

# Legislative Assembly.

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

## *Deputy President :*

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

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## *Assistants of the Secretary :*

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

RAI BAHADUR D. DUTT.

## *Marshal :*

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

## *Committee on Public Petitions :*

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

MR. C. S. RANGA IYER, M.L.A.

SIR ABDULLA-AL-MAMUN SUHRAWARDY, KT., M.L.A.

MR. B. SITARAMARAJU, M.L.A.

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# LEGISLATIVE ASSEMBLY.

Thursday, 24th November, 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.

## SHORT NOTICE QUESTION AND ANSWER.

### STRIKE ON THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

**Mr. M. Maswood Ahmad:** Will Government be pleased to state the full facts about the strike on the Madras and Southern Mahratta Railway?

**The Honourable Sir Joseph Shore:** The facts are as follows:

Last year the bulk of the staff retrenchment on this Railway was effected by voluntary retirements on special terms which were regarded by the Court of Enquiry as liberal and the number discharged by June, 1931, in the Mechanical Workshops at Perambur, was 109 workmen. In July, 1931, as a result of representations made by the All-India Railway-men's Federation and, in consultation with the Agents of Railways, it was decided to suspend further discharges until the end of October, when it was intended to review the position again. This review was made by the Agent, Madras and Southern Mahratta Railway, who informed the Madras and Southern Mahratta Railway Union in November, 1931, that "after taking into consideration the following factors, namely, (1) normal wastage, (2) stoppage of recruitment, (3) the number of men nearing superannuation, (4) the working of short time which may be necessary in individual shops", there would be a surplus of 172 workmen in the Perambur shops whom it might be necessary to discharge, but that, to 25 of them, it was intended to offer vacancies in the Hubli Workshops. It was made clear that, in addition to this surplus, there were 110 workmen who had been withdrawn from the Workshops and placed on temporary work connected with a remodelling scheme and that this number of workmen would also be discharged on completion of the said scheme.

2. In January, 1932, with reference to an enquiry made of the Railway Administrations by the Railway Board as to the staff (a) then surplus, and (b) likely to become surplus in the near future, after allowing for wastage, stoppage of recruitment and assumed short time working in the workshops up to 1½ days a week, the Agent, after allowing for these factors, reported that there would be no surplus in Workshop staff on this basis, but that a surplus of 110 Workshop men would occur on completion of the remodelling scheme.

3. On the 6th June, 1932, the Government of India issued a communiqué announcing their conclusions on the recommendations of the Court of Enquiry appointed last year to investigate certain matters connected with staff retrenchment on Railways. This communiqué also permitted the resumption of discharges which had been suspended since July, 1931. The Agent then made a fresh estimate of surplus staff in

August, 1932, which fixed the surplus at 474 men. This involved a surplus of more than 20 per cent. in some shops. On the 19th September, the Administration offered the workmen one or other of two courses, namely (1) either to discharge 66 men in order to bring down the surplus to a maximum of 20 per cent. in any one shop and retain the remaining surplus by working the necessary amount of short time, or (2) to discharge all surplus men. For 40 out of 66 to be discharged under the first alternative, appointments in the Traffic Department were also offered.

On the 7th October, on further consideration, the Administration offered to retain all the 66 men marked down for discharge and absorb them by increase of short time, keeping the limit of short time in any one shop at a figure not exceeding 20 per cent. of normal working time, and the workmen were asked whether they agreed to increased short time in preference to discharges. They replied that they were agreeable to the principle of short time provided it meant re-instatement of 93 out of 109 men discharged in the previous year (the remaining 16 had reached the age of superannuation) and absorption of really surplus staff. They also asked for a discussion of the alleged surplus by the Administration with the Union.

On the 13th October, the Agent informed the staff that he declined to accept the demand for the re-instatement of the 93 men discharged last year. He added that the strength required in each shop was for the Administration to decide on the basis of the actual work to be done and that, as the staff had agreed to the principle of short time rather than discharge, short time would be increased in certain shops and the staff were advised of the short time to be worked in each shop. Accordingly, increased short time was introduced from the 21st October, and under this arrangement no staff whatever would have been discharged. The same day, however, the Union resolved to call a strike from the morning of the 24th October.

4. The total surplus, if full normal working were restored, would be approximately 700 employees, including 110 men who would become surplus on the completion of the remodelling scheme.

5. In his statement, dated the 26th October, the President of the Madras and Southern Mahratta Railway Union, observed that:

"in fact the whole issue on which the present dispute has arisen is on the fact that by not taking the 93 men and not having only that much short time as is necessary to cover the really surplus staff (even within the limits accepted by the Railway on paper) the Administration has broken its own declared promise."

And, in a letter, dated the 11th November, 1932, from the President of the All-India Railwaymen's Federation to the Railway Board, the following are stated to be the issues involved:

"(i) that the present figures of alleged surplus on the basis of Agent's statements before the strike are excessive and self-contradictory;

(ii) that the men and the Administration having been agreeable to work short time up to 20 per cent. and also in view of the fact that most of the shops are not working to this limit and even accepting the basis of the latest short time announced and introduced on 21st October, 1932, by the Administration, the 93 out of 109 compulsorily discharged men under retrenchment last year could, and, therefore, should, be absorbed within the prescribed limits."

6. The attitude of the Agent, Madras and Southern Mahratta Railway, is this. Surplus staff must vary from time to time according to the

character and amount of work and plans for its execution and its determination must rest with the Railway Administration, that short time working has its drawbacks, both administrative and economic, but that, in order to minimise hardship, the Railway Administration was willing to have recourse to this method to avoid further discharges. The Agent made it clear that he was not prepared to increase short time with the object of re-instating the men discharged last year. The Government of India are satisfied that no promise was made or implied that the men discharged last year would be re-engaged, and that the offer of the Agent to work short time up to a maximum of 20 per cent. in each shop was solely with the desire to avoid any further discharges. The working of short time up to such a limit is not a normal feature of workshop practice and, except as a temporary expedient, has serious drawbacks.

7. The strike commenced on the morning of the 24th October, 1932, in the Perambur Workshops, and spread to the Arkonam Engineering Workshops on the 3rd November, 1932, and to the Hubli Mechanical Workshops on the 19th November, 1932. According to the latest advices received from the Agent, the approximate number on strike and at work is, as under:

	On strike.	At work.
Perambur Mechanical Workshops ..	5,294	354
Electrical Workshops and services at Perambur.	450	35
Arkonam Engineering Workshops ..	748	96
Hubli Mechanical Workshops ..	911	1,884

**Mr. M. Maswood Ahmad:** Is it a fact that about 2,000 employees of the Hubli Railway Workshop downed the tools up to the 19th November as has been published by the Federation?

**The Honourable Sir Joseph Bore:** Well, Sir, I have given the figures received up to last night.

**Mr. M. Maswood Ahmad:** Have Government seen the controversy about the notice given by the strikers to the Agent who says that the notice in question does not comply with the requirements of section 15 of the Trade Union Act?

**The Honourable Sir Joseph Bore:** Does my Honourable friend refer to any notice given by the Agent?

**Mr. M. Maswood Ahmad:** Notice given by the strikers to the Agent.

**The Honourable Sir Joseph Bore:** I have not seen it.

**Dr. Ziauddin Ahmad:** What was the conclusion arrived at during the discussion between the Railway Board and All-India Railwaymen's Federation and the National Federation in June last on the question of railway workshop?

**The Honourable Sir Joseph Bore:** I do not quite follow what my Honourable friend is referring to.

**Dr. Ziauddin Ahmad:** A deputation of the Railwaymen's Federation and National Railway Federation waited upon the Railway Board in June, 1982, and they had some conversation about retrenchment in workshops. I should like to know what was the conclusion arrived at in this conversation about retrenchment in workshops?

**The Honourable Sir Joseph Bhoré:** If my Honourable friend would give me notice, I shall be able to give him a full answer; but I am afraid that I am not very well conversant with what really took place as I was then away.

**Dr. Ziauddin Ahmad:** This is rather an important point. If I remember aright, the Federation suggested that workmen should be given compulsory leave for one month in a year, that is, they should draw salary for eleven months in the year and, in that case, no retrenchment was necessary. May I ask, if this was the agreement arrived at, and why was it not given effect to?

**The Honourable Sir Joseph Bhoré:** Possibly my Honourable friend is right, but he will see from the answer I have given that the Railway Administration are making use of all means in order to prevent discharges.

**Dr. Ziauddin Ahmad:** Was this particular method also followed which was agreed to between the Federation and the Railway Board?

**The Honourable Sir Joseph Bhoré:** I will look into the matter.

**Mr. K. P. Thampan:** Is the strike confined only to the workshops?

**The Honourable Sir Joseph Bhoré:** Yes; I have enumerated them in my reply.

**Mr. K. P. Thampan:** Sir, may I know whether the Agent of the Madras and Southern Mahratta Railway is taking adequate steps to prevent the strike from extending to other branches, such as the traffic-department, etc.?

**The Honourable Sir Joseph Bhoré:** I have no doubt that the Agent of the Madras and Southern Mahratta Railway is fully cognisant of his responsibilities in this matter and that he has taken care to see that these are fully discharged.

**Mr. M. Maswood Ahmad:** Will Government be pleased to see the terms of the notice given by the strikers to the Agent, because that is a very important point? The Agent says that the notice does not come under section 15 of the Trade Union Act, while the strikers say that it does come under that section. This is rather an important point. Will Government please look into the terms of the notice?

**The Honourable Sir Joseph Bhoré:** As a matter of fact, in my answer I have given the real issue as referred to both by the President of the Madras and Southern Mahratta Railway Union and by the President of the Federation. Their communiqués clearly state the issues in dispute.



**Mr. M. Maswood Ahmad:** I want the Railway Board to see the copy of that notice and examine whether it comes under the Trade Union Act or not. That is my point.

**The Honourable Sir Joseph Bhore:** I do not know that that is really a vital point, but I will certainly look into it.

**Dr. Ziauddin Ahmad:** What I am just going to ask, arises out of the supplementary question that has been put and, if the Honourable Member so pleases, he can answer it. Will the Honourable Member please say whether he does not think that at present there is a great deal of extravagance in the duplication of Workshops? Each and every Railway Administration wants to have its own Workshop and even in Bombay, there are two Workshops side by side and they employ very expensive machinery, while, as a matter of fact, one Workshop would suffice. The same is the case practically all over India. Is it not desirable to consider the policy of reducing the number of Workshops as a measure of retrenchment, and getting the work of one quality carried out in one Workshop. The repairs of carriages may be done in the nearest Workshop and not sent to the Workshop of the Railway to which the carriage belongs?

**The Honourable Sir Joseph Bhore:** I am sure my Honourable friend does not expect me to pronounce, in reply to a supplementary question, an opinion on a matter of policy and a subject of such great importance. I have no doubt that this question, which requires looking into, will undoubtedly receive attention.

**Mr. M. Maswood Ahmad:** Will the Honourable the Home Member please enlighten the House whether this strike will come under the provisions of clause 3 of the Ordinance Bill?

**The Honourable Mr. H. G. Haig:** Sir, I have not followed very closely the conditions of this strike. But I think the point might possibly be answered by my Honourable friend, the Law Member.

**The Honourable Sir Brojendra Mitter:** When this Bill is passed into law, it will be time enough to consider that point.

**Mr. M. Maswood Ahmad:** I was referring to the Ordinance Bill which is under discussion in the House.

**The Honourable Sir Brojendra Mitter:** But let us pass the Bill first.

**Mr. M. Maswood Ahmad:** Will this Bill, if passed, effect the trade union activities in India?

**The Honourable Sir Brojendra Mitter:** I cannot anticipate the form in which the Bill will be passed, and when it is passed, there will be time enough to consider that question.

**Sir Hari Singh Gour:** In order to enable Honourable Members on this side of the House to form their own judgment, I think it is up to the Honourable the Law Member to enlighten them as to what the practical effect of the enactment will be. As a matter of fact, in the general debate, I raised that point in connection with the House.

**The Honourable Sir Brojendra Mitter:** That would be relevant when we discuss this Bill and not in a supplementary question.

**Sir Hari Singh Gour:** In a supplementary question, it is perfectly permissible, with due deference to the Honourable Member, to ask as to what will be the effect of a pending legislation on the activities of trade unions in this country.

**The Honourable Sir Brojendra Mitter:** Ordinarily, a special Act controls the general Law. If there be a special Act dealing with strikes, that Act will control the general law of the kind we are discussing.

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### STATEMENTS LAID ON THE TABLE.

**The Honourable Mr. H. G. Haig** (Home Member): Sir, I lay on the table a statement giving the information promised in reply to part (a) of starred question No. 452, asked by Sardar Sant Singh on the 19th September, 1932.

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#### PERSONS HOLDING TEMPORARY APPOINTMENTS IN THE INDIAN STORES DEPARTMENT AND IN THE OFFICE OF THE CONTROLLER OF PRINTING AND STATIONERY.

\*452 (a).

Department or Office.	Number of men who qualified in 1926.	Number of men who qualified in 1929.	Period of service.
Office of, the Controller of Printing and Stationery .	..	1	4 years and 5 days.
2. Indian Stores Department .	1	..	3 years and 1 month.

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**The Honourable Sir George Schuster** (Finance Member): Sir, I lay on the table:

- (i) the information promised in reply to supplementary question to starred question No. 983 asked by Sir Leslie Hudson on the 8th November, 1932; and
- (ii) the information promised in reply to unstarred questions Nos. 97—99 asked by Kunwar Hajee Ismail Ali Khan on the 27th September, 1932.

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#### UTILISATION OF THE PETROL TAX ON THE DEVELOPMENT OF ROADS.

\*983. The proportion of the surcharge relating to the 2-anna share of the petrol duty payable to the Road Fund is also being credited to that Fund.

## DISCHARGE OF TEMPORARY EMPLOYEES OF THE CURRENCY OFFICE, LAHORE.

97. (a) No. Only a part of it was discharged.

(b) Hindus . . . . . 20  
Muslims . . . . . 18

(c) Yes.

(i) General side . . . . . 4 Treasurer's side . . . . . 24

(ii) Hindu . . . . . 1 Hindus . . . . . 18  
Muslims . . . . . 2 Muslims . . . . . 2

(d) Yes.

(i) Hindus . . . . . 13  
Muslims . . . . . 2

(ii) The information is not available. Temporary men are engaged whenever required and sent away when not wanted.

## MUSLIM STAFF IN THE CURRENCY OFFICE, LAHORE.

98. (a) 123

(b) The number of posts held by Muslims and Hindus in each Category given below :

	Hindus.	Muslims.
Currency Officer . . . . .	1	
Assistant Currency Officer . . . . .	1	

*General Department.*

Superintendents . . . . .	2	..
Assistant Superintendent . . . . .	1	1
Selection grade clerks . . . . .	2	1
Clerks in time-scale . . . . .	12	9
Record clerk . . . . .	..	1
Daftry . . . . .	..	1
Jamadar and Chaprasi and Coolies, etc. . . . .	8	1
Total . . . . .	25	14

*Treasurer's Department.*

Treasurer . . . . .	1	..
Assistant Treasurers . . . . .	2	..
Selection grade clerks . . . . .	3	..
Clerks in time-scale . . . . .	23	15
Shroffs . . . . .	9	.
Daftries . . . . .	1	2
Mechanic . . . . .	..	1
Pressman . . . . .	..	1
Chaprasies and coolies, etc. . . . .	17	3
	56	22

(c) Yes.

(d) and (e). Government have already issued general instructions for the guidance of heads of departments. No special orders are considered necessary.

SUPERSESSION OF MUSLIMS BY CERTAIN HINDUS IN THE CURRENCY OFFICE,  
LAHORE.

99. (a) and (b). Yes.

(c) These three Hindu clerks and three Muslim clerks superseded Hindu and Muslim seniors.

(d) No. The supersession was on general grounds of capacity.

**Mr. H. A. F. Metcalfe** (Foreign Secretary): Sir, I lay on the table the information promised in reply to starred questions Nos. 1263—1265 asked by Seth Haji Abdoola Haroon on the 16th November, 1982.

MEMBERS OF THE QUETTA MUNICIPALITY.

\*1263. (a) Yes.

(b) and (c). The total number of members of the Quetta Municipal Committee is 38. Of these five are natives of Baluchistan, five are officials and the remainder though of different nationality, are all local men and residents of Quetta Municipality, many of whom have been residents since their birth.

FEASIBILITY OF PROMOTING THE QUETTA MUNICIPALITY TO AN ELECTED BODY.

\*1264. (a) Nominations to membership of the Quetta Municipality are made under Section 3 of the Quetta Municipal Laws of 1896, by the Honourable the Agent to the Governor General and Chief Commissioner in Baluchistan, to whom recommendations are submitted through the usual official channels.

(b) Government are prepared to consider the matter if and when a local demand for such action manifests itself. All sections of Quetta Municipal population are already adequately represented on the Committee.

APPOINTMENT OF LOCAL PEOPLE IN THE STAFF OF THE QUETTA MUNICIPALITY.

\*1265. Practically all employees of the Quetta Municipality are local in the sense that they ordinarily reside within municipal limits. Tribesmen of Baluchistan whether residents within or without Municipal limits are eligible for municipal employment if they possess the requisite qualifications.

**Mr. G. B. F. Tottenham** (Army Secretary): Sir, I lay on the table:

(i) the information promised in reply to starred question No. 1004, asked by Khan Bahadur Haji Wajihuddin on the 8th November, 1982; and

- (ii) the information promised in reply to part (b) of unstarred question No. 111 asked by Sirdar Sohan Singh on the 27th September, 1932.

GRANT OF DISABILITY PENSION TO JAMADAR AHMAD BAKHSI.

\*1004. (i) The clinical notes mentioned are merely requests from the Officer Commanding the Indian Military Hospital, Manzai, asking the Brigade Laboratory at Bannu to make certain examinations. No examination could be made on receipt of the first note, and the Laboratory report on the note of the 30th May, 1926, was negative.

(ii) I have seen the proceedings of the Medical Board held on the 28th March, 1927. In the opinion of the Board the Jamadar was then suffering from a disability contracted on field service, but there is nothing in the proceedings to show that he was not in normal health while in Waziristan in 1926, and there is no record of his having been admitted to Manzai hospital in that year.

ALLEGED RUDE BEHAVIOUR OF THE PRESIDENT, CANTONMENT BOARD, LUCKNOW.

111. (b) At a meeting of the Lucknow Cantonment Board on the 7th June last, the President was constrained to declare that he would have to adjourn the meeting if a certain member persisted in making irrelevant remarks. In consequence of information that the member was not satisfied with his ruling, the President at the next meeting stated that no one regretted the incident more than he did, but hoped that members would endeavour to confine themselves to relevant remarks and criticism, in order to facilitate the speedy conduct of business. The member who was the cause of the incident thanked the President for this statement. At the meeting of the Board held on the 4th October, the Board passed two resolutions, one expressing resentment at the action of unknown persons in reporting the incident to the press and the other expressing the Board's appreciation of the President's work during his tenure of office.

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

- (i) the information promised in reply to part (e) of starred question No. 940 asked by Mr. A. H. Ghuznavi on the 7th November, 1932;
- (ii) the information promised in reply to unstarred questions Nos. 130 and 181 asked by Sir Zulfiqar Ali Khan on the 27th September, 1932;
- (iii) the information promised in reply to starred question No. 788 asked by Mr. M. Maswood Ahmad on the 26th September, 1932; and
- (iv) the information promised in reply to starred question No. 93, asked by Rao Bahadur M. C. Rajah on the 7th September, 1932

## COLLIERIES OWNED BY THE STATE AND COMPANY RAILWAYS.

\*940(e).

Colliery.	Contractor.	Rate per ton.	Duration of contract.
		Rs. A. P.	
Kargali Quarry .	Madhavji Mepa .	1 3 0	31st March 1934.
Kargali Quarry .	Ramji Karman .	1 3 0	31st March 1934.
Kargali Quarry .	M. Simon .	1 3 0	31st March 1934.
Kargali Pits .	Rambilas Singh .	1 9 0	31st March 1934.
Kargali Incline .	M. Simon .	1 11 0	15th November 1934.
Bhurkunda Incline .	H. Vasantry .	1 14 0	31st March 1934.
Jarangdih Pits .	Karamchand Thapar .	2 0 0	12th April 1935.
Jarangdih Quarry/ Incline.	Rambilash Sing .	1 8 0	17th June 1934.
Talcher Pits . . .	N. H. Ojha . . .	2 0 0	12th April 1935.
Giridih Deep Pit .	Lachminarain Sing.	On sliding scale from Rs. 1-5-6 to Rs. 1-8-0 per ton dependent on output.	No stipulation in the agreements regarding the period of contract and the quantity of coal to be raised per month but there is a clause in each agreement whereby the con- tract can be ter- minated by giving one month's notice.
Giridih Joktiabad Pit	Madanlal Sarawgi .	On sliding scale from Rs. 1-1-0 to Rs. 1-3-6 per ton dependent on out- put.	
Sariabad and Bita- garh.	Khodabux Meah .	Rs. 1-8-0 including haulage and loading.	
No. 1 Jubilee Pit .	Harilal . . .	Rs. 1-4-9 per ton.	
16A pit . . . . .	Madari Meah . . .	Rs. 1-8-0 including haulage and load- ing.	
Bokaro Quarry 1 .	Jatasankar Dossa .	Rs. 1-3-0 loaded into wagons.	No stipulation in the agreements regarding the period of contract and the quantity to be raised per month out there is a clause in each agreement where- by the contract can be terminated by giving 6 months notice.
Bokaro Quarry 2 .	Kripasankar Warrah	Rs. 1-3-0 loaded into wagons.	
Bokaro Quarry 3 .	R. A. Sarge . . .	Rs. 1-3-0 loaded into wagons.	
Sawang Quarry .	Probhulal Pathak .	Rs. 1-3-0 loaded into wagons.	
Sawang Incline .	Probhulal Pathak .	Rs. 1-9-0 loaded into wagons.	
Argada . . . . .	Ladha Singh . . .	On sliding scale from Rs. 1-3-0 to Rs. 1-8-0 per ton dependent on out- put. Rates include charges for rais- ing, removing of overburden and stone bands as well as lead.	

**APPOINTMENTS BY COMMUNITIES OF CLERICAL AND DAILY-RATED STAFF IN THE ELECTRICAL BRANCH OF THE NORTH WESTERN RAILWAY.**

130. (a) Statement "A" below contains the necessary information.

(b) The reply is in the negative.

**STATEMENT "A".**

*Statement showing (i) the number of appointments made from 1st January, 1931, upto August, 1932, in the Electrical Branch, North Western Railway, and (ii) the number obtained through Central Labour Exchange, North Western Railway, Mcghulpura.*

Community.	Clerical staff.		Daily-rated staff.					
	Perma- nent.	Tempo- rary.	Skilled Labour.		Unskilled Labour.		Total.	
			Perma- nent.	Tempo- rary.	Perma- nent.	Tempo- rary.	Perma- nent.	Tempo- rary.
1	2	3	4	5	6	7	8	9
	No.	No.	No.	No.	No.	No.	No.	No.
<b>I.</b>								
Hindus .	1	3	3	4	3	2	7	9
Muslims .	..	1	2	6	10	9	12	16
Sikhs .	..	..	1	1	5	1	6	2
Anglo- Indians.	..	..	..	3	..	..	..	3
<b>Total .</b>	<b>1</b>	<b>4</b>	<b>6</b>	<b>14</b>	<b>18</b>	<b>12</b>	<b>25</b>	<b>30</b>
<b>II.</b>								
Number ob- tained through Central Labour Exchange.	1	3	5	3	..	8	6	14

**APPOINTMENT OF MR. KUNDAN LAL KAPUR AS CHIEF CLERK IN THE ELECTRICAL BRANCH OF THE NORTH WESTERN RAILWAY.**

131. Mr. Kundan Lal Kapur was transferred in 1928 from the Headquarters Office, North Western Railway, Lahore, where he was officiating in grade III (100-5-140) to the office of the Chief Electrical Engineer on promotion as Accounts Clerk in grade IV (160-10-200) and was in 1930 promoted as Head Accounts Clerk in grade VI (265-15-330) and became Chief Clerk in that office on the same rate and scale of pay.

Appointments to the posts of Accounts Clerks are made from among staff qualified in the accounts examination and Mr. Kundan Lal's promotion to grades IV and VI as Accounts Clerk and Head Accounts Clerk, respectively, did not involve supersession of any qualified Muslim Clerk.

**ALLEGED INJUSTICE TO RETRENCHED MUSLIMS IN THE DELHI DIVISION OF THE NORTH WESTERN RAILWAY.**

\*783. (a) and (b). The number of subordinates and inferior servants of the various communities from amongst those discharged and demoted under the economy campaign prior to 31st July, 1932, on the Delhi Division, who have been reappointed or promoted upto 1st September, 1932, is given below :

	Europeans.	Anglo-Indians.	Hindus.	Muslims.	Sikhs.	Indian Christians.	Total.
<b>Reappointed—</b>							
Subordinates	..	..	6	5	1	..	12
Inferior servants	..	1	180	113	7	..	301
							<b>313</b>
<b>Promoted—</b>							
Subordinates	..	..	9	14	3	..	26
Inferior servants	..	..	12	10	1	3	26
							<b>52</b>
<b>Grand total</b>							<b>365</b>

(c) The Agent, North Western Railway, has issued instructions to the Divisional Superintendents that the excess in the number of Muslims discharged should be adjusted when recruitment is resumed by recruiting a correspondingly larger number of Muslims.

(d) The reply is in the affirmative.

(e) Yes.

(f) The Junior Assistant Personnel Officer, Central Labour Exchange, endeavours in the first instance to meet demands from a divisional or other office by the transfer of employees in service in other divisions or offices who are surplus to requirements. These transfers are made without reference to communal consideration. If no surplus men are available, the demand is met by appointment of suitably qualified men who were discharged on reduction of establishment. The selections for such appointment are made on the basis of seniority with due regard to standing orders on the subject of the representation of the various communities.

(g) Yes.

**CO-ORDINATION OF RAILWAY VERSUS BUS TRANSPORT SYSTEM.**

\*83. The East Indian Railway had an arrangement with the Calcutta Tramways Company whereby Rail-cum-bus monthly tickets were issued. This arrangement was in force from 1st June, 1929, to 30th June, 1931, when the Tramways Company buses were withdrawn. The scheme was of no special advantage to the railway.

The Eastern Bengal Railway has an arrangement with the Commercial Carrying Company of Shillong which operates motor buses between Gauhati and Shillong. Statements showing the financial results for the last 3 years of the traffic interchanged between the railway and the road transport agency are appended.



ASSAM BENGAL RAILWAY COY., LTD.

(Incorporated in Great Britain.)

A.

(1) Statement of passenger traffic (interchanged at Gauhati) booked between Shillong and A. B. Railway Stations.

Commercial Carrying Co.'s share of earnings.												Assam-Bengal Railway share of earnings.																			
1st Class.			2nd Class.			Int. Class.			3rd Class.			Total.			1st Class.			2nd Class.			Int. Class.			3rd Class.			Total.				
No.	Rs.		No.	Rs.		No.	Rs.		No.	Rs.		No.	Rs.		No.	Rs.		No.	Rs.		No.	Rs.		No.	Rs.		No.	Rs.			
1929-30	*125	2,750	*206	2,543	*127	1,146	*288	1,542	746	7,981					*126	4,450	*208	3,988	*129	900	*283	2,035	746	11,373							
1930-31	*183	4,037	*164	2,056	142	1,278	338	1,851	828	9,222					*164	5,817	*183	3,508	142	1,005	338	2,441	828	12,771							
1931-32	*138	3,036	*125	1,569	*139	1,251	*328	1,721	730	7,577					*125	4,704	*142	2,854	*141	1,128	*322	2,098	730	10,784							

(2) Statement of passenger traffic (via Pandu and Gauhati) booked between Shillong and E. B. Railway and beyond (across A. B. Railway).

1929-30	1	22	10	125	131	191	*71	367	96	645	1	1	10	4	*22	3	*68	8	166	16
1930-31	4	88	2	25	18	162	45	234	69	509	4	3	2	1	18	3	45	6	69	13
1931-32	..	..	7	88	..	..	28	146	35	234	..	..	7	2	..	..	28	4	35	6

(3) Statement of passenger traffic (via Gauhati and Tinsukia, Gauhati and Titabar or Marians) booked between Shillong and D. S. Railway or J. P. Railway (across A. B. Railway).

1929-30	27	594	5	63	14	126	68	370	114	1,153	27	1,195	5	124	14	116	68	447	114	1,882
1930-31	12	264	3	38	4	36	72	374	91	712	12	486	3	67	4	33	72	464	91	1,050
1931-32	20	440	9	113	*5	45	*71	379	105	977	20	874	9	196	*8	58	*68	451	105	1,679

\*The difference in number shown against each class is due to passengers having travelled in two different classes on A. B. Railway and C. C. Coy.'s services on through tickets issued to them.

## ASSAM BENGAL RAILWAY COY., LTD.

(Incorporated in Great Britain.)

'B'

## Statement of Luggage and Parcels Traffic.

Year.	PARCELS.					
	Interchanged traffic between A. B. Rly. & C. C. Co. ( <i>viz</i> Gauhati).		Traffic booked between Shillong & E. B. Rly. and beyond across A. B. Rly. ( <i>viz</i> Pandu & Gauhati).		Traffic booked between Shillong & D. S. or J. P. Rly. across A. B. Rly.	
	A. B. Rly. share.	C. C. Co. share.	A. B. Rly. share.	C. C. Co. share.	A. B. Rly. share.	C. C. Co. share.
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1929-30	2,482	2,853	Nil	Nil	1,174	912
1930-31	2,615	2,858	Nil	Nil	942	804
1931-32	2,436	2,922	Nil	Nil	779	853
	LUGGAGE.					
1929-30	108	93	..	..	..	..
1930-31	104	118	..	..	..	148*
1931-32	672	718	..	..	..	..

\* Military traffic charged for at public rate on Motor service.

ASSAM BENGAL RAILWAY COY., LTD.  
(Incorporated in Great Britain.)

C.

## Statement of Goods Traffic.

Year.	Interchanged traffic between A. B. Ry. & C. C. Co. (viz Gauhati).		Traffic booked between Shillong & E. B. Ry. and beyond across A. B. Ry. (via Pandu & Gauhati).		Traffic booked between Shillong & L. S. or J. P. Ry. across A. B. Ry.		
	Maunds.	A. B. Ry. share.	Maunds.	A. B. Ry. share.	Maunds.	A. B. Ry. share.	C. C. Co. share.
1929-30	843	Rs. 1,145	9,331	Rs. 1,824	458	Rs. 398	Rs. 608
1930-31	8,548	5,653	48,872	4,704	327	372	380
1931-32	11,753	5,802	51,966	4,444	709	753	790

## THE CRIMINAL LAW AMENDMENT BILL—contd.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Further consideration of the amendment moved by Mr. Jog that clause 4 of the Bill be omitted.

**Mr. S. O. Sen** (Bengal National Chamber of Commerce: Indian Commerce): Sir, I support the amendment moved by my Honourable friend, Mr. Jog, that this clause 4 be deleted. We raised this point in the Select Committee and we wanted this clause to be omitted. We were told that this clause 4 and clause 7 were so vitally important to the Bill, that if they were deleted, the Government might as well give up the whole Bill. Our objection was that this provision introduces a novel proposition, a novel principle in legislative enactments. We have heard of preference in tariffs, on goods, we have heard of preference in excise duty, etc., but we have not heard of preference being given to any individual, as regards his social, political or domestic spheres or even his duty as a servant of Government. (Applause.) This clause gives preferential treatment, it ensures preferential treatment to a Government servant not only in his activities as a servant of the Crown, but also in other spheres of life, as a man. Sir, that was the principal ground upon which we objected to this provision while we were discussing it in the Select Committee. We also considered that except in Guzerat boycotting of public servants was not heard of and, therefore, an all-India Legislation was not necessary. There are also various other grounds upon which this clause could be condemned. Sir, I will take a little time in going through the clause and discuss it elaborately. The clause runs thus:

"Whoever, with intent to harass any public servant in the discharge of his duties. . . ."

What are the duties in respect of which he is to be harassed, his duties as a public servant or his duties as a man? The clause does not say anything definite about this point. This clause mentions only about a public servant being harassed, in the discharge of his duties, but, unlike the Penal Code, and even the Ordinance, it does not state in relation to what the duties are. The Penal Code also speaks of a public servant being obstructed in his public functions, but here we have got nothing of that nature. I do not know whether this was done designedly or it is merely an omission on the part of the Government. If it is an omission on the part of the Government, the fault lies not with Government alone, but with all the members of the Select Committee who were discussing this provision. But it seems to me that it was designedly done. The public servant must be protected as a public servant and also so far as his duties as a man are concerned. We know that some statutory duties have now been cast upon men in this country. Under clause 8, the duty has been cast upon the father or guardian of a boy to conduct himself in such a way that his son or ward may not commit any crime, in which case he may be fined. Secondly, under the Ordinance, it is laid down that no man should own any land in this accursed country. Under section 27 of the Ordinance, if the inhabitants of any part of the country are concerned in the commission of any offence or any other act of crime, Government may inflict a collective fine. Now, who are the inhabitants described in that section:

"For the purposes of this section, 'inhabitants of an area' includes persons who themselves or by their agents or servants occupy . . . etc."

Therefore, occupation of a land by a servant on my behalf would include me as a person against whom the fine is to be realised. The inhabitants also include:

“Landlords who themselves or by their agents collect rents, notwithstanding that they do not actually reside therein.”

and, therefore, liable to fines.

We do not know where a collective fine is going to be imposed and, therefore, it is high time for us to sell or disown all lands rather than be mulcted in this way. These are the kind of statutory duties which have been cast upon the inhabitants of this country.

Then the clause says:

“or to cause him to terminate his services or fail in his duty”.

Again, what duty? In clause 3, the same words occur. “fail in his duty”, but there it is qualified by the words “as such servant”. Here those words do not occur. Therefore, failing in his duty may mean failing in his duties as an individual. Then, where will the public be? It is probably the duty of a man to provide for his children’s education. But if a private tutor be not available in the village where the public servant happens to be, any person eligible to be a private tutor will be liable under this clause. Then it goes on:

“refuses to deal with”

What is the meaning of the word “deal”? I was looking into the Oxford Dictionary yesterday and found that “deal” means “associate with or do business with”.

The Honourable the Law Member has now given notice of an amendment to this clause. He wants that after the words “deal with” certain words should occur, namely, “in the way of providing food”. Therefore, it will be the duty of the public in a village where there is a public servant to provide him with food; but he says and the Select Committee Report says that all these words are qualified by the words “on the terms on which such things would be done in the ordinary course”. Sir, I have very great doubt whether these words can qualify this portion of the clause, because, after this, it says “or to let on reasonable rent”, etc. Here we have provided a term upon which land is to be let out, namely, a reasonable rent. Having provided that, it is open to doubt whether this portion, *vis.*, “on the terms on which such things would be done in the ordinary course” will be considered to have any reference to the first part of the clause. Then it goes on to say:

“render any customary service,” etc.

We know that to establish a custom, it must be a custom from immemorial times, although mercantile customs grow in this country very rapidly. But this has nothing to do with mercantile custom, because the public servant will have nothing to do with it. Therefore, what is the customary service mentioned here? It may be that a person who is a washerman must wash his clothes; if he is a barber, he must shave him:

“on the terms on which such things would be done in the ordinary course.”

[Mr. S. C. Sen.]

There cannot be any ordinary course for every person. In some villages, as you know, the barbers are not paid, because they may have been given lands by some persons for whom he does free work; in other cases, they may be given some vegetables or something of that kind. So the meaning of the words "in the ordinary course" is not clear.

Then, again, when you come to the definition of a "public servant" you find that "public servant" includes not only respectable people, but also menials of railways, menials of utility companies, village *chowkidars*, etc. Is it possible to concede that the village *chowkidars* are to be rendered customary services upon the usual terms? By the inclusion of all sorts of people within the category of public servants, the operation of this clause has been made ridiculous. On these grounds I support the motion that this clause should be deleted.

**Mr. G. S. Dutt** (Bengal: Nominated Official): Sir, as I listened to the debate on this amendment, I could not help being impressed with a sense of unreality in a great deal of the eloquence to which we have been treated mainly by Honourable Members opposite and also to a certain extent by at least one Honourable Member behind us. The questions before us are: Is the present law sufficient to protect those who are responsible for the administration of the laws which this Legislature has made? Is it sufficient to protect them from harassment for discharging their duties, in carrying out the laws which this Legislature has made? Instead of dealing with this question, many of my Honourable friends have branched off into what I may describe as Demosthenes-like diatribes on the devoted heads of the poor officials who have to carry on the dusty work of district administration. There is a proverb in Bengal—we have an apposite saying in Bengal, Sir, for everything in life and Mr. Lahiri Chaudhury has had occasion to quote one or two in his speeches—which describes this state of mind and it says:

*"Dhan Bhantey Shiver geet."*

It means, you should not be singing the song of Shiva when you should be husking your paddy. Now, the song of Shiva, Sir, is an unfailing source of enthusiasm, and one of its attributes is that once somebody begins to sing it, there is a chorus raised, everybody comes and joins in the chorus, and you have a scene of wild excitement. Here also we find that whenever you begin to abuse officials, it provides an unfailing source of enthusiasm and a chorus is always raised accompanied by feelings of wild excitement. With due deference to Honourable Members, I would liken the speeches of many Honourable Members opposite on this subject to an abandonment to the song of Shiva and its wild excitement and chorus, when they should be devoting themselves to the practical business of the husking of paddy or, in other words, of dealing with the subject matter of the clause before the House. The paddy in the present case, Sir, is this clause 4 and the question is whether the present law is sufficient to protect the public in their freedom of action and freedom of locomotion, and, what is here more to the point, whether it is sufficient to protect your officers in their work of safeguarding to the public their freedom of locomotion and action. I believe, Sir, that I can say without fear of contradiction from my Honourable friends who come from Bengal, that I am no blind supporter of the police or of any other section of Government officers. But,

Sir, what I ask is this: is this the time to dilate upon the evil doings of some particular officials who may have made some mistakes? I think, Sir, that this subject of the widespread prevalence of the misdeeds of officials is rather out of date now. It is well known that the conditions which prevailed twenty years ago and which used to provide a subject of unflinching theme for eloquence in the Legislatures and outside do not prevail now-a-days. In this connection I must say that the only Honourable Member who had a good word to say about the officials is our friend, Mr. Gaya Prasad Singh, to whom I must pay a tribute for doing this. But when I listened to my Honourable friend, Raja Bahadur Krishnamachariar, I was wondering where he got his highly entertaining stories from. While listening to him, I began to wonder, Sir, whether he was speaking from mere hearsay or from his own knowledge. He talked about a poor *chowkidar* who came to him after a long journey and begged for a few piece worth of drink. I presume that in this case he was speaking from his own experience. Presumably the Honourable Member did not give the *chowkidar* the drink asked for and he was undoubtedly within his right in refusing it. But, Sir, when he related the story of a Government official going at dead of night and waking up a poor *dhoby*, and, if I remember him aright, putting a bundle of clothes on his back to carry for washing. I began to wonder, Sir, whether his memory was not playing a trick with him and whether he was not relating a story of pre-historic times which he had read in a story book as a child or had perhaps heard from his grandmother. Sir, I do not know much about Madras, but I do not think that such things happen even in that part of the country now-a-days. Let us leave the misdeeds of officers alone and come to deal with the motion before the House. And here I would ask Honourable Members, are the officers on trial here or are you on trial?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order.

**Mr. G. S. Dutt**: My point, Sir, is this: many Honourable Members spoke yesterday as if the officials were here on their trial. My point is, it is not the officials who are on their trial here . . . . .

**An Honourable Member**: Then do not ask for protection.

**Mr. G. S. Dutt**: It is the Legislature which you represent and which must provide sufficient protection to all by its laws that is on its trial. Are not the officials who are engaged in protecting you but to whom you give step-motherly treatment, also entitled to protection? I admit, Sir, that there may be officials here and there who commit excesses. Officials in every country are liable to err. In no country are the members of any section of people absolutely perfect. But, Sir, we must not lose sight of the fact that they are not on their trial here now; it is really you who are on your trial.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Will the Honourable Member address the Chair?

**Mr. G. S. Dutt**: I beg your pardon, Sir. I ask Honourable Members opposite, is it not they who are on their trial? Is it not the Legislature itself which is on its trial . . . . .

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muham-madan Rural): Including Mr. Dutt himself.

**Mr. G. S. Dutt:** And what are the officials doing for which you treat them in a step-motherly fashion? Sir, I can understand the principles which are represented by the gentlemen who themselves practise civil disobedience: they are welcome to their principles. If they came here and said "You have no right to pass such laws," I could understand their position. But how can my Honourable friends opposite who profess to represent the present order which the others want to subvert—who represent the laws which the others want to subvert—how can they come here, Sir, and object to legislation which is intended to fill up the lacuna left in the present law through which these attacks are being made? The officials to whom you are meting out this step-motherly treatment are the people who, as your servants, are administering the laws which the other party is out to subvert. They are your own front line of defence against this attack on you and the present order which you represent, and instead of supporting them you are hitting them from behind . . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Will the Honourable Member remember that he is addressing the Chair?

**Mr. G. S. Dutt:** When I said "you", Sir, I really meant the Honourable Members of this Legislature. I used the word impersonally. I submit that it is the officials who stand between them and utter chaos and disorder, and yet, Sir, instead of backing the officials up in this matter, Honourable Members opposite come here and behave as if they are the right wing of the people constituting the Congress and the civil disobedience movement and make excuses for the conduct of those gentlemen. However justifiable such conduct may appear in the eyes of those who represent the civil disobedience movement, I submit, Sir, that it does not lie on Honourable Members opposite to come and object to legislation which is intended to remedy the inadequacy of the laws which they have themselves helped to make. I say, Sir, it is they who stand impeached, because the law is at present obviously inadequate to meet the situation that has been created by civil disobedience. It has been admitted by several speakers, including Mr. Ranga Iyer, an eminent Member of the party opposite, that boycott of officials has, in fact, sometimes had a very harmful effect. Public servants have been boycotted in many localities and that has been admitted. Now, why have these officials been boycotted? Is it not because they have been protecting our Honourable friends opposite from being picketed and boycotted? I have heard of a case in which a prominent Member of the opposite party was obstructed by a party of ladies in Queensway in New Delhi, and he had to send a S. O. S. in the form of a telephone message to the police who had to go and bring him here to attend the meeting of the Assembly. We all know of such cases. Sir, the public servants are there to protect Members of the public including Honourable Members from being molested, picketed or boycotted. Honourable Members opposite ought to know, Sir, that if public servants were not ready to help them from being picketed, they would be picketed today against coming to the Legislature and from going to the station;—they would be picketed from the bazars, and they would not be able to get their luggage from the station; and because the public servants are protecting Members from being picketed, these public servants are boycotted. Therefore, Sir, I would again ask: why



are we boycotted? I don't say that I have been boycotted personally, but when I say "we", I speak on the behalf of the devoted band of public servants to whom I have the honour to belong. Sir, we are boycotted because we public servants are protecting Honourable Members and other law abiding people from being picketed and otherwise molested or from being themselves boycotted. My friend, Raja Bahadur Krishnamachariar said that if we behave nicely, we shall not be boycotted. He said: "Why don't you command the respect of the people? Don't resort to Criminal Law, be kind and sympathetic"?

**Mr. B. V. Jadhav** (Bombay Central Division: Non-Muhammadan Rural): Is he not justified in saying so?

**Mr. G. S. Dutt**: But that is not the point here, Sir, at all. Attempt was made yesterday to prove that it was on account of the unpopularity of certain officials that they were boycotted. As I have remarked, Sir, Honourable Members opposite speak as if they belong to the right wing of the Congress, but when they make such statements as advocates of persons practising civil disobedience, it becomes obvious that they are speaking without any brief, because those who resort to boycott of officials do not say that they boycott certain officers because they are bad officers. On the contrary, Sir, they say.—I speak from personal experience.—and I have got a great regard for their consistency.—they say that they want to boycott us because they are out to subvert the law and because we stand between them and the subversion of law.—not because we are bad officers. It is obvious, therefore, Sir, that when Honourable Members opposite, while discussing this motion, delivered a long harangue on the goodness or badness of certain individual officials, that was entirely beside the point, because that would not represent the brief of Honourable Members opposite if they had a brief at all. Sir, Congressmen would never give Honourable Members opposite a brief. On the contrary, if they were allowed to have their way, they would prevent Members opposite from coming to this House and discharging their duties as Members of this Legislature. Sir, this is really not a war waged against the officials. This is a war waged against Members of the Legislature, against the legislation which they have passed and against people who are doing their ordinary work under the protection provided by the law of the land.

**Mr. D. K. Lahiri Chaudhury** (Bengal: Landholders): They do not want this law at all.

**Mr. G. S. Dutt**: Is that the reason why you do not want it, also? I shall mention another proverb from Bengal in this connection, with your permission, Sir, and at the risk of tiring the patience of Honourable Members. (Some Honourable Members: "Go on, go on; it is very amusing.") This proverb runs: "*Jar janyey kari churi sheyee boley chor*". It means that "the person for whom I have committed a theft calls me a thief". It is meant to apply to the case of a very indigent father, who does not know how to make both ends meet, who has a big family who are all starving, and who is therefore reduced by cruel necessity to the degradation of committing a theft to save their lives. We know,

[Mr. G. S. Dutt.]

Sir, that such cases do unfortunately happen. With the money he has earned by the theft to save them from hunger he gives them things to eat; they all eat them, and then they turn round and call him a thief. That, Sir, is the unfortunate position in which we, poor officials, find ourselves placed here. We undergo all this ignominy, all this hardship and face all this boycott to protect these gentlemen, and these gentlemen are the people who give us abuse in return. Instead of thanking us for protecting them, they call us oppressors. (*An Honourable Member*: "Give up your job.") There is pathos in all this that is enough to make the angels weep, but we are not angels and so we do not weep: nor have we the time to weep, because we are too busy protecting our friends opposite from picketing, boycott and molestation.

Now, Sir, I come to the question—is the present law sufficient to deal with the menace of boycott? There is undoubtedly this menace of boycott. If any Honourable Members will profess ignorance, I say that the number of such Members who profess ignorance must be very small, because it is well known that there have actually been very relentless cases of boycott . . . .

**Mr. B. V. Jadhav**: That was in Guzerat.

**Mr. G. S. Dutt**: Not only in Guzerat, Sir, but in every part of the country there have been numerous cases of boycott, and there can be no doubt, Sir, that if the Ordinances had not afforded the protection needed, that would have been extended to other parts of the country and in an even more virulent form. In olden times, Sir, in this country when a man was not liked or did something which was not approved by society, then, as our friend, Sir Muhammad Yakub, has reminded us, they used to stop the washerman and the barber. But the boycott also stopped there. They thought that that was enough to show their disapproval. The idea was to make the offending member feel he was unclean. He could wash his own clothes and he could shave himself, but neither would the barber shave him nor the washerman wash his clothes. That was enough. But the present boycott which has been the product of the civil disobedience movement, Sir, is in the form of a regular war,—it is a blockade. I have known cases, I do not want to go into minute details,—but I have known cases where police officers as a class have been refused food in inns or hotels. Now, imagine this case for a moment. There is a large number of police officers in a district town. They cannot all cook their food, they live without their families and so they go to a hotel to have their food and it is refused to them. (*An Honourable Member*: "They do not pay.") That is not a fact, Sir, they have always paid for their food. It is only since the beginning of this movement that they have been refused food. The idea is to force the men to resignation by starvation. If they do not resign, then they are sentenced to starve. What are the alternatives open to such officials who find themselves in this unhappy position, where they are virtually blockaded and sentenced to be starved? I say, Sir, this thing has happened. If anybody challenges this, I am prepared to give instances, but, I am sure, it will not be challenged. If, say, a hundred police officers in a district town are refused food in every hotel in that town, what are the alternatives that are open to them?

They can either go starved and die. Do Honourable Members opposite want that to be done? No, I presume not. Or they can take the law into their own hands and commit reprisals and snatch the food by force from the hotel. If they do this, they will lay themselves open to the complaint that those who are the protectors of the people are themselves breaking the law. The officials are refused food because they protect the people at large against picketing and molestation. Do Honourable Members desire that they should refuse to protect the people against these activities and resign their service? If not, then, there is only one course left open, and that is for the Legislature to provide the necessary safeguard in the shape of a law which will prevent this kind of reprisals against public servants who are protecting the public. Obviously, therefore, there is a lacuna in the law when faced with such a movement and it is the duty of this Legislature to fill up that lacuna. Honourable Members opposite have asked for examples of customary service. Is it or is it not a customary service that hotel-keepers should provide food to people who demand it in return for payment in the ordinary way like members of the general public?

**Mr. D. K. Lahiri Chaudhury:** Is it a customary right?

**Mr. G. S. Dutt:** It is a customary service for a hotel-keeper to cater to you if you go to a hotel and ask for food in return for payment; in any case, Sir, it would certainly come under "deal with".

**Mr. D. K. Lahiri Chaudhury:** What a nice interpretation!

**Mr. G. S. Dutt:** An official goes on tour to an out of the way station, and he takes with him a quantity of luggage which has to be transported to a place two miles off. The coolies are induced not to carry it. The hackney carriage driver is induced not to carry that luggage. Is not that a refusal to deal with a public servant on the terms on which such things would be done in the ordinary course? I submit, Sir, I have given sufficient instances, and I say that these things have happened. I assure the House that I can cite other cases where such things have happened. There have been cases where customary services have been refused to *chowkidars* in the villages by barbers and washermen and where shopkeepers have refused to deal with a public servant in the ordinary course of business, and thereby the public servant has been greatly harassed in the performance of his duties. This refusal has been made with the intention of harassing the public servant in the discharge of his duty. My Honourable friend, Mr. Lalchand Navalrai, said that this was a movement of passive resistance. Sir, I have never heard of an euphemistic phrase which is so absolutely inappropriate as this phrase of non-violent passive resistance when applied to civil disobedience or boycott. Does violence only apply to cases where a man carries a lathi in his hand or beats you on your back? An action may be violent even when the person who is responsible for the action has no weapon in his hand. Take this case which I have just now cited of an innkeeper refusing to give food—all the innkeepers of a town refusing to give food to a particular class of public servants and practically making them starve.

**Mr. D. K. Lahiri Chaudhury:** Can you cite any *prima facie* case where they were starved to death?

**Mr. G. S. Dutt:** I have a particular case in mind, but I do not want to waste the time of the House. The police officers could not be starved to death, Sir, because the Ordinances came into operation before this could happen.

**Mr. D. K. Lahiri Chaudhury:** We shall be glad to hear the details of one instance.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member should be allowed to speak without such interruptions.

**Mr. G. S. Dutt:** I can assure the House I can cite cases, I have actually a particular case in mind.

**An Honourable Member:** Why not cite the Mymensingh case?

**Mr. G. S. Dutt:** When you want to make a man starve by refusing to give him the ordinary facilities for taking food, if that is not violence, Sir, I do not know what is violence. All I can say, Sir, is that one would prefer a little violence to such non-violence. In order to explain what I mean, Sir, I would mention a third proverb from Bengal which says:

*"Petey kheley pithey shoy."*

It means, if your stomach gets food to eat, then your back does not mind getting one or two blows. It comes to this, that the violence which is involved in the attempt to starve a man by picketing or boycott is a worse kind of violence, although it is not accompanied by a blow from a lathi, than the actual physical violence that would be involved in inflicting a few mild blows on his back.

I submit, Sir, that there is ample justification for this clause and that a very clear case has been made out for it. So long as the menace of civil disobedience exists, it is the bounden duty of this Legislature to provide legislation of a temporary nature supplementing the existing law which fails to protect the official from harassment in the discharge of his duty of protecting the ordinary citizen in the exercise of his freedom of action and freedom of locomotion, and in his duty of protecting the members of the public including the Honourable Members of this Legislature from being molested, picketed and boycotted by those who practise civil disobedience. Sir, I oppose the amendment. (Cheers.)

**Mr. D. K. Lahiri Chaudhury:** Sir, I was listening with rapt attention to the speech of my Honourable friend when he was on his legs. (Sir Muhammad Yakub: "Late friend?") I did not know that my Honourable friend, Sir Muhammad Yakub, was also short of hearing. I listened to my Honourable friend with rapt attention, because, at one time, he held the position of the executive head of my district, and I thought that I would get some light from him regarding this clause. I could not make out whether his speech was suicidal or homicidal; he spoke both ways, and he made certain observations which may be applied to the officials themselves. He admitted that there have been some misdeeds committed by the officials in the discharge of their duty.

**Mr. G. S. Dutt:** On a point of personal explanation. I said that the officials are just as much liable to error as members of the public, including Members on the other side of the House.

**Mr. D. K. Lahiri Chaudhury:** Then, Sir, I was listening to the speech of my Honourable friend, Sir Muhammad Yakub, with rapt attention.

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): You were not paying any attention at all.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Chair wishes to know whether Honourable Members desire to get on with public business and, if they do, will they please abstain from interrupting the speakers addressing the House?

**Mr. D. K. Lahiri Chaudhury**: I thank you, Sir, for giving me protection from these interruptions. My friend, Sir Muhammad Yakub, opposed this amendment. I do not know how he would explain this phrase "in the discharge of his duty," if he had taken up a brief in this case. Suppose an officer is not on duty and he comes and asks for a house to be let and he is refused, will this clause operate? I very much doubt whether it will be interpreted in any Court of justice that the man who refuses the house will be liable to prosecution. This Bill will divert the people from civil disobedience to criminal disobedience. This takes away the personal right and liberty of the people. The Law Member was talking about the fundamental law of jurisprudence. May I ask him, under what law of jurisprudence this clause has been inserted. It is inhuman to take away the liberty of the poor citizens. I was listening to the speech of Mr. Dutt. He spoke of public servants being starved. He did not give one single instance in support of what he said. This law will be so much hated by the people that they will take to criminal violence. If we read between the lines of this clause, the poor people in the village will be subjected to much harassment. Raja Bahadur Krishnamachari has explained fully what happens in cantonments and my friend, Mr. Raju, has clearly pointed out how it will hit the people. I can say with the utmost confidence and with all the power that I can command that this particular clause will be harmful and detrimental to the interests of the masses and it will surely lead to revolution instead of keeping them non-violent. This law, which is sought to be enacted by the Home Member, will lead to the utmost difficulties. Now a regiment has been stationed in my district, and if they pass through a village and ask for some food from the people in the village and the gentlemen in the village refuse this food or if they ask a shopkeeper to supply them with so many seers of milk, rice and other articles and he says that he cannot supply, then those men will be liable to arrest.

**Mr. Muhammad Anwar-ul-Azim** (Chittagong Division: Muhammadan Rural): Far fetched.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Please don't interrupt.

**Mr. D. K. Lahiri Chaudhury**: The sellers will certainly hesitate, because they are not sure whether they will get the price or not. I think my friend, Mr. Dutt, will bear me out when I say that if his *chaprasi* goes to the bazaar and says that he is the *chaprasi* of the *Bara Sahib* and the shopkeeper says that he does not care whether he is the *chaprasi* of the *Bara Sahib* or not, and says that he would not sell his articles. . . .

**Mr. G. S. Dutt**: I am unable to support my Honourable friend in what he is saying.

**Mr. D. K. Lahiri Chaudhury:** It may not be the case with my Honourable friend, but it is the case with many of the servants of the higher officials. This cannot be denied. Such incidents are happening in every market. Sir, by way of developing this point, I must say that this particular clause ought to be deleted from this pernicious and obnoxious Bill. I hope and trust, every Member, who has got a little conscience, who has got some little sympathy for the unarmed, defenceless and dumb millions of India, will at least consider this particular question at issue, and I trust they will give their conscientious support to the deletion of this particular clause. Sir, I support this amendment.

**Mr. Amar Nath Dutt** (Burdwan Division: Non-Muhammadian Rural): Sir, thirty-two years ago, when I was idling away my time in a town in the Presidency of Madras, taking a little respite from the University courses, I noticed the name of a young man who stood first in an examination at the University to which I belonged and I noticed in the papers that he was sailing for England to compete for the Indian Civil Service. I imagined a very brilliant career before him, but I never knew that in the evening of my life I would have the privilege of friendship of that young man. Only I wish that we had been discussing matters on the same side and with the same eye to the interests of our countrymen, but our visions are quite different. It is the 'service', 'lifelong servitude' that has made him one man, and participation in the political movements of my country from almost my boyhood has made me another man. Sir, I do not know, when we give our accounts before our Maker, in what way we shall be judged. Be that as it may, I was sorry that I had to hear from him things which probably in his heart of hearts he cannot believe, knowing him as I do that he also wishes India's freedom, and India's culture is also dear to him and he wishes to revive India's lost heritage as evidenced by his activities to revive the *Rai Bashay* dancing. Sir, my Honourable friend, Mr. G. S. Dutt, has been pleased to observe that he has knowledge of customary services being denied to officers. Sir, he holds a brief for the customary services for Government officers. Now, will he believe me, as I believe him and he must have known of instances which I shall presently relate. Will he believe me also that it is a customary service for a policeman to get up on any *tonga* that may pass him?

**Mr. S. C. Mitra:** Free of cost?

**Mr. Amar Nath Dutt:** Yes. You can take it from me, this is the practice here in New Delhi also. Sir, one day when a policeman was trying to get up on my *tonga*, I said, I shall get down from the *tonga* if he gets up. Then he got down. Now, is that customary service?

**An Honourable Member:** Do they use it free, or pay for it?

**Mr. Amar Nath Dutt:** I do not know. My friend is a District Officer and he must have had ample experience and he must have heard of the complaints as to the doings of the Settlement Officers in far-off villages. Sir, recently we had settlement operations in our own District, and I have some personal knowledge as also my friend over there, Rai Bahadur S. C. Mukherjee whom I miss here just now, who was laying a complaint before a Member of the Executive Council of Bengal saying that these

people were harassing his men and his tenants. And what was the reply? I hope I am breaking no confidence when I say, that that gentleman told us that in a far-off village in the home of an ex-Chief Justice of Bengal when he and the Director of Land Records were there, then the ex-Chief Justice complained about the underlings of the settlement officers and the Director of Land Records himself said that they had taken Rs. 65 from his officers. Sir, is that customary service? Even when the first settlement operations begin, these *amins* go about the villages when standing crops are there. The instructions no doubt are "save the crops as much as possible", but actually they will destroy as much of the crops as possible in order to get some money and if you do not grease their itching palm, you are not safe. Sir, all these complaints people make before the Settlement Officers, but they do not pay any heed. Will my Honourable friend take it from me that I have known of Settlement Officers who never spent anything for their rations? That being so, it follows that there are officers and officers. There no doubt are a few officers of the type of my Honourable friend over there, but the majority of them are not so, and, if that is so, then to protect them so that they may commandeer these customary services would be tantamount to oppressing the people, and I do submit that they do not deserve it.

Sir, my friend has been pleased to speak about lacuna in the law. That lacuna has been existing since the enactment of the Indian Penal Code. That lacuna has been existing since the dawn of civilisation in human society. That lacuna has been existing in all civilised systems of jurisprudence in the world, excepting probably Russia. Sir, I think every one here will admit that since the dawn of civilization, two things have kept society together. They are the institution of private property and the institution of marriage. We hear of Bolshevich Russia destroying these two foundations of human society. Sir, I ask, do the Government, by the introduction of legislative measures like this, want to do away with the rights of private property, wish to introduce Bolshevism into India? Sir, we would like to be spared Bolshevism, and I should have hoped that my Honourable friend over there, for whose country's history, I have the greatest admiration and from whose jurisprudence I have learnt to value the freedom of person and property, also would spare us from this Bolshevich procedure, for, Sir, what is this clause, if not a negation of the right of private property? It says:

"Whoever, with intent to harass any public servant in the discharge of his duties,"

Sir, the word "harass" means to fatigue, to exhaust. Now I readily admit that officers of the type of my friend over there are generally fatigued and exhausted in the discharge of their duties, but there are also officers who can be fatigued in other ways and not in the same manner as my Honourable friend over there. Who is to judge of the fatigue that is caused, and how that fatigue can be caused by an outsider, I fail to understand. There are other meanings also of the word "harass". It also means to tire with repeated and exhausting efforts.

Now, Sir, my Honourable friend has been pleased to observe that they are our servants; they are the public servants. The common saying, at least in former days, was and I do not know whether it is otherwise now, that the Indian Civil Servant is neither an Indian nor Civil nor is he a Servant. It is a misnomer. But let us concede that since much water has flown over the Jumna and they have also changed. They have

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become to a certain extent Indian; they have also become Civil and I do not doubt it, because I find them here very courteous and they are not certainly of the type of Civilians that we find elsewhere. I have the highest respect for them, because they are an able body of administrators, the like of which India required formerly. At the same time, it has been said by an official Member from Bombay that the higher class of officers are not affected. It is only the subordinate ranks that are affected and, in this connection, I would like to say that our complaint is not against the high officers of the Government, not against the members of the Indian Civil Service, who try to remove every wrong that is possible. Although we do not see eye to eye with them in all matters, I do believe in the honesty and sincerity of their desire to work for the good of the people. At the same time, this desire to protect the subordinates and not to listen to the complaints of the people against the subordinates by which act they are encouraged all the more, is very much to be deprecated. Sir, they should not be given such a protective legislation as is embodied in clause f.

I come to the next phrase—"refuses to deal with". Now, Sir, the word "deal" means several things. But the verb transitive "deal" means to divide, to separate, to sever, to give in portions or as one portion or share, to distribute, apportion, to bestow, deliver as blows or the like, to distribute, and so on. The complete phrase is—to deal with or to let on reasonable rent a house usually let for hire. I ask you to consider this. A man may have a house to let, but he does not want to let it out to an untouchable and you do not come out with any protection for these untouchables. Pandit Sen, who is a Sanatanist, has a house at Khulna and he would not let it out to an untouchable or to a non-Hindu and your public servants are not always orthodox Hindus. In fact, in these days very few orthodox Hindus are left. Supposing my friend over there, who has no objection to take forbidden food, compels my friend, Pandit Sen, to let out his house to him, would it not be injuring the religious feeling of a Sanatanist Hindu? I do submit, that houses owned by orthodox Hindus are not let out to low class Hindus and your subordinate ranks are recruited not only from the high class Brahmins and Kayasthas, but also from the Depressed Classes. In fact, it is your principle nowadays to give the members of the Depressed Classes more representation in the services and the Legislature. That being the case, you are compelling a man to act against his own religious belief by compelling him to let out a house on hire to a man to whom he would not let out. Then, suppose there is a gentleman who has built a house in his native town and he serves in Delhi. For some time he may let it out, but he will require it when he goes to his native place on long leave or during the vacations. In this connection I will give you a particular instance of a neighbour of mine. He is a Professor in the Delhi College and he lets out his house to judicial officers and not to executive officers. And I will tell you why. There are four houses in a particular locality, one of which is occupied by an executive officer. I know of an executive officer who used to get articles written in newspapers against himself and thereby gain favour with the Government. He himself used to get those articles written in newspapers that he is against Swadeshi and oppressing people to buy foreign goods. The executive officer got police guards in his house and what is the result? People are not willing to take the other three houses on rent. I know it perfectly well that this



man does not require a police guard, but he has got it simply because he wants to impress his superior officers that his life is in danger and, like the officer referred to before, he expects to be a favourite with the powers that be. Sir, that is the mentality of the officers of the Government and they do not deserve any sympathy. I know that a District and Sessions Judge who happened to be living in the same compound was one day rudely treated by the police guard and, therefore, no other judicial officer would accept any of these three houses in the same compound. So, there may be various reasons for not letting out a house to an officer, especially officers of the type who take advantage of the adversity of the people.

Then the clause refers to customary service. As regards customary service, I have already given one instance as I saw here in Delhi. There may be other kinds of customary services to such a public servant or any member of his family. I was just going to narrate a story which, I think, is familiar to all officers who have served as Settlement Officers in the province of Bengal, when Bihar was included in Bengal. Those officers, who served in that Province as Settlement Officers, are aware of what customary services meant in that particular Province. They know what customary services these officers at times would want. For decency's sake, I would not narrate it in this House. On the terms of this clause, such horrible kinds of customary services might be demanded by public servants. The terms in which this clause is worded are very vague. In fact a judicially minded Judge will find it very difficult to get all the materials necessary to come to a judicial finding about these things.

The clause further reads, "withholds from such person or his family such medical services as he would ordinarily render", and so on. In this connection I will narrate another incident about an officer who taught a good lesson to a sub-inspector of police who robbed a boy of a *pappaya* which was being taken to the bazaar for sale. That incident is very well known to every officer in Bengal. The poor boy, whose mother was ill, took two *pappayas* to the market for sale so that he could fetch some sago and sugar candy for his mother. The poor boy was passing by the side of a *thana* and he was called by the head constable or the sub-inspector of police, whoever he might be, and then one of the *pappayas* was taken away by that police officer. The sub-inspector then told the boy that he would give the same amount of money for the *pappaya* which he took if he returned to him after selling the other *pappaya*. The other *pappaya* was a smaller one and so the poor boy was going crying. Fortunately for the boy, a District Officer, whose name will always be remembered for several reasons—he was Mr. Beatson-Bell—that District Officer was passing by the road when the boy was going along and that District Officer enquired of the boy as to why he was crying. The boy narrated the incident that took place, and immediately the District Officer took the *pappaya* and gave him a ten-rupee note and asked him to demand a like amount from the sub-inspector of police who took the other *pappaya* from him. When the boy went to the sub-inspector of police and showed him the ten-rupee note which he got as the price of one *pappaya* and when he demanded a like amount from the sub-inspector, the latter immediately slapped the boy on the face saying that the boy was uttering a lie. Even when the boy told the police officer that a Sahib gave him the ten-rupee note, he did not believe his version. Immediately the District Officer came on the scene and told the sub-inspector that he has paid

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Rs. 10 and so he also must pay Rs. 10. What I mean to say is, there are kind hearted District Officers like the one I have just mentioned. There are officers who command our respect and to such officers we are prepared to give any amount of protection even at the cost of our lives. There are many such officers belonging to the Indian Civil Service and that is the reason why we respect the members belonging to that Service. My Honourable friend, Mr. Dutt, must have had his own experience of subordinate officers of Government.

As I was submitting, Sir, this provision is not intended to supply a lacuna in the law, but it is negating the law altogether. That being so, in all fairness I would request the Government not to enact a law like this and arm their subordinate officers with such wide powers as is contemplated in this clause which destroy the rights of private property. With these words, I support the amendment.

**Mr. B. Rajaram Pandian** (Madura and Ramnad *cum* Tinnevely: Non-Muhammadan Rural): Sir, I rise to support the amendment. I am afraid it is too elastic a power to be entrusted to the men dressed in brief authority, particularly the police. We have sufficiently heard of the police excesses. Is it fair, Sir, that they should be armed with more powers of this nature? If the Government really want to check the Congress indulging in activities of this nature, cannot Government prevent or take suitable action against them and, if need be, make suitable arrangements with some people who will be ready to serve the purposes?

I know certain incidents that have taken place in my province. A friend of mine, belonging to a village in the Tinnevely District, one day at 11 P.M. was going in his private car to fetch a doctor and a midwife to attend on his wife who was in labour pains. On his way he had to pass through another big village to go to Tenkasi where the Doctor lives. He met a head constable who wanted the car for his police constables to go to another village in the opposite direction as he had received information of a communal rioting. My friend said that he would place his car at his disposal after taking the doctor to his house to attend on his wife, but the head constable is reported to have stopped the car from proceeding further. My friend finding that the head constable was too obstinate, ordered the driver to drive the car. The final result was that his driver was charged for rash driving half a dozen times and he was registered as a suspect and everyday a policeman would go to his house and ask him if he was present there. I think even now he is being surveilled. The driver went away from his service and no other driver will take up service under him. So much so that he had to sell away his car for a very low price. I do not want to weary the House with such incidents, but the Honourable the Home Member knows that corruption is not a rare thing amongst the subordinate ranks of the police and village officers. My Honourable friend, Mr. Macqueen, will be able to tell you how many cases of corruption by village officers he had to deal with in the Ramnad District.

- May I ask the Government, Sir, are they really going to protect the interests of the law-abiding people by enacting this measure which would
- expose them to harassment every day by subordinate agents of Government?

Besides, I may venture to mention that the Government of India by this provision will give a clear hand to the lower officials to perpetrate the worst form of corruption in the name of suppressing the civil disobedience movement.

**Mr. Uppl Sahab Bahadur** (West Coast and Nilgiris: Muhammadan): Sir, I rise to support this amendment, because I trembled when I read this clause as it placed my liberty at stake. Hereafter, the Members of the Legislative Assembly, especially those who live in villages, will be at the mercy of the village officers and village *chaprasis*. (Hear, hear.) That is why I support this amendment. Hereafter we, M.L.A.'s, will have to play to the tune of these village officers and hereafter we, M.L.A.'s, will have to keep the village officers in good humour lest we should come under the provisions of this clause. Not only we have to humour the village officer, but also his relative and any member of his family. Hereafter we have to be in the good books of any person who has got a relation in the Government service. By this enactment what the Government are going to do is to terrorise Indians and to terrorise our souls. Government talk of terrorism in India, but who are the real terrorists in this country? It is the Government who are the real terrorists in this country. The Government want to terrify our souls. That is what the Government are aiming at. The clause, as it is worded, is not aimed at Congressmen alone, but against every citizen of India.

We have got to humour the police officers. Only those who live in villages can understand what a village officer is. Before his superior officer he is a tame sheep, harmless innocent sheep, but when he once enters the village in the absence of his superiors, he is a tiger among men. It is to these people that we will have to submit; it is these people whose necessities we will have to supply and there will be no limit to his necessities. What are the things we have to do? We have to rent our house to him, to rent our lands to him and to his family, and render every customary service to him. In the village, the village officer does not live on the pittance of his income. He generally lives in a very princely style, and how does he manage it? He lives by extracting money from the villagers. Hereafter, when he gets such a wide instrument as this clause, what will be the fate of the poor people? Certainly life would not be worth living in the village and I appeal to the Members of this House to throw out this clause if they have any self-respect in them. Hereafter we have got to submit to the village *chaprasi* and make ourselves his slaves if we vote in favour of this clause. I, therefore, appeal to all Honourable Members to vote against this clause.

**Mr. S. O. Mitra:** Sir, I support the motion of my Honourable friend, Mr. Jog. I see that, in inserting this clause, Government themselves felt the weakness of their position, because in sub-clause (3) of clause 1, they made a provision that this clause will not automatically apply to the whole of India, but only where the Local Government, by notification in the local Gazette, will direct that this law will have its application. Then there is a further provision in the clause itself. Sub-clause (2) says:

"No Court shall take cognizance of an offence punishable under this section unless upon complaint made by order of, or under authority from, the Local Government or some officer empowered by the Local Government in this behalf."

So, I press this further point for the consideration of Government. If that is so, and if, as was said by the Home Member, he is by this,

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all-India legislation laying the foundation on which the Local Governments will build the superstructure,—although we find, as a matter of fact, that Local Governments in their eagerness have already built a great part of the superstructure before the foundation has been well laid,—in that case, may we not leave this provision to be enacted by provinces that require it, rather than burden our all-India Statute-book with such a piece of legislation? So far as we have heard here, it was an official gentleman from Bombay who cited numerous cases from Gujerat. Sir, the Government of Bombay have enough power and they can easily have a clause like this in one of their emergency measures rather than ask us to provide these drastic laws for the whole of India without being convinced that there is any necessity for it.

The other point that I want to make is that Government will be creating a new caste, the official caste, by such legislation. It is not difficult to comprehend cases where there may be hardship; but, I wonder, why in a village all the people should be so perverse that when they find a public servant coming to the village to render some service to the villagers themselves, they should all form a great body and boycott him and try to harass him. It is really an unnatural position. I do not admit that it is a fact, but if it is so, Government are indirectly lending colour to the conviction that the Congress has such a great influence in the whole of India that, because of the Congress mandate, people would even refuse the ordinary rites of hospitality which are almost customary in India, to these Government officials. We have our little villages. If the public servant is inconvenienced in one particular village, he may go and seek shelter and get food in the next village. Is it Government's case that the Congress influence is so widespread in villages that a public servant will not get any help even from the Muhammadans? My Honourable friend, Sir Muhammad Yakub, will probably admit that he will not be denied some hospitality by at least some Muhammadans. If that is so, what is the necessity for a legislation like this? As I have already said, it is possible that there may be hardship in some cases. It has been said very chivalrously by Mr. Amar Nath Dutt that for an untouchable he will not allow some rooms even for hire and when it is demanded from the Government to make some rules for the amelioration of the condition of untouchables, the Home Member will say that Government have nothing to do with these social and religious matters. I feel that the untouchables and the Depressed Classes and some other classes suffer much more from these petty inconveniences than even these high and mighty officers of Government. So my point is, that I do not contend that there are no cases of hardship, but that it is not possible by mere legislation to eliminate all these inconveniences. As has been rightly said by Raja Bahadur Krishnamachariar, you cannot create affection in the minds of the people by legislation. Government servants should treat the people in such a way as to make them feel that they are their friends and that they are acting for their benefit. In that case, such questions will not arise. The remedy is there, making Government servants really public servants, and not by such drastic legislation. Sir, that is the main ground on which a legislation like this in the all-India Statute-book is unnecessary.

• An Honourable Member: I move that the question be now put.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): I accept the closure. The question is that the question be now put.

The motion was adopted.

**The Honourable Mr. H. G. Haig** (Home Member): Sir, we have had in the course of this debate a series of stories and personal reminiscences, creditable or discreditable to Government servants, and, throughout, it has seemed to me that the line of criticism has been to concentrate on the supposed misdeeds of individual Government servants and to pay no attention to the broad considerations on which the Government have based their proposals. It has been said that we cannot provide by Statute for an attitude of affection towards Government servants; I am quite aware of that, but we can provide by Statute and, I submit, we should provide by Statute, that public servants are not persecuted, harassed and denied the ordinary necessities of life, and that this weapon, a mean and malicious weapon, should not be used against them, that in fact Government servants are entitled to protection from this form of active persecution. I should have supposed that after the House had listened to the facts put before them by my Honourable friend, Mr. Sorley—whom I venture to congratulate on his very effective maiden speech—they would have realised that there was a strong case to meet and that it was not a case that could be met by reciting stories of petty oppression by petty Government officials in ordinary circumstances. What has happened during this civil disobedience movement? Mr. Sorley put the case before us very clearly. Government servants have been served with notices to quit their houses. Why? Because they are Government servants and were doing Government work. Government servants have been refused supplies in villages where it is impossible to find alternative sources of supply. Why? Simply because they are Government servants and were doing their duty. Those are the kind of activities against which Government servants can claim to be protected and against which indeed it is necessary that the Government, in their own interest, should protect their servants. I can understand the attitude of those—I will not say understand, but it is possible to hold as my Honourable friend, the Raja Bahadur, apparently holds, that we might look forward to some Utopia where Government servants will be abolished altogether, though, as far as I remember, most Utopias contemplate a large multiplication of Government servants. But so long as we do require officials, we must protect them against this system of bullying and harassing, and we must not allow our Government servants to be forced into resignation by these methods. If that position is once accepted, then the whole question becomes one of the method by which we shall protect them; and, in regard to that, the Select Committee went most carefully into the provisions of this clause and introduced a number of changes.

Various criticisms of detail have been made on the clause, as it is at present drafted, and I hope to deal with those on the later amendments in which specific proposals are made for changes in the drafting. But I would invite the attention of the House to a few general considerations. It is urged that if this clause is passed, we shall be establishing a great tyranny, the tyranny of Government servants. I would remind the House that a clause, very similar to this, even wider in its terms, has been in force now for nearly a year. I have heard of no instances of this tyranny. There have in fact been few prosecutions under the boycott provisions of the Ordinances. It is not that those provisions have not been important and

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effective: we are assured by many Local Governments—not only the Government of Bombay, but many other Local Governments,—that this clause has been most effective. The fact is, that once it is known that Government have power to deal with these activities, the activities cease and there is no occasion to employ the section. But, before the powers were taken by the Ordinances, this harassing of Government servants and this boycott of Government servants was a serious menace and not in one province only. I would invite the attention of the House to three safeguards which we have placed on these powers. I admit that it is not easy to draft a satisfactory clause and we realised that the exercise of these powers does require to be watched. What are the three safeguards that we have placed in this Bill? The first is, that this particular clause, when passed into law, does not come into operation except in such area as the Local Government may specially notify. In other words, except when there is some evidence of a concerted attempt to harass Government servants by these methods, the clause will not be enforced at all. Therefore, we need not fear that all over India and at all times there will be this Government tyranny. In the second place, the clause itself makes it very clear that, in order to establish the offence, it must be proved that the withholding of supplies or whatever the action is, has been done with intent to harass the public servant or to cause him to terminate his services or fail in his duty. That cannot be proved in the ordinary cases which various Honourable Members mentioned. Some Government servant wants to get into a *tonga* or wants some supplies of food to which he is not entitled. It will not be possible to prove that the withholding of services, to which he is in no way entitled, has been done for the purpose of harassing him in the discharge of his duties. In the third place, we have provided yet another safeguard, for which I notice we get little gratitude from Honourable Members opposite, in clause 4 (2), which provides that no complaint can be made under this clause unless it has been authorised by a responsible officer. With these safeguards, I commend the clause to this House with absolute confidence.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question 1 P.M. is that clause 4 of the Bill be omitted.

The Assembly divided:

AYES—31.

Abdul Matin Chaudhury, Mr.  
Chandi Mal Gofa, Bhagat.  
Dutt, Mr. Amar Nath.  
Gour, Sir Hari Singh,  
Isra, Chaudhri.  
Jadhav, Mr. B. V.  
Jog, Mr. S. G.  
Lahiri Chaudhury, Mr. D. K.  
Lalchand Navalrai, Mr.  
Liladhar Chaudhury, Seth.  
Maswood Ahmad, Mr. M.  
Misra, Mr. B. N.  
Mitra, Mr. S. C.  
Murtuza Saheb Bahadur, **Maulvi**  
Sayyid.  
Pandian, Mr. B. Rajaram.

Parma Nand, Bhai.  
Phookun, Mr. T. R.  
Ranga Iyer, Mr. C. S.  
Reddi, Mr. P. G.  
Reddi, Mr. T. N. Ramakrishna.  
Roy, Rai Bahadur Sukhraj.  
Sant Singh, Sardar.  
Sarda, Diwan Bahadur Harbilas.  
Sen, Mr. S. C.  
Sen, Pandit Satyendra Nath.  
Singh, Kumar Gupteshwar Prasad.  
Singh, Mr. Gaya Prasad.  
Sitaramaraju, Mr. B.  
Thampan, Mr. K. P.  
Uppi Saheb Bahadur, Mr.  
Ziauddin Ahmad, Dr.

## NOES—56.

Abdul Hye, Khan Bahadur Abul  
Hasnat Muhammad.  
Acott, Mr. A. S. V.  
Ahmad Nawaz Khan, Major Nawab.  
Allah Baksh Khan Tiwana, Khan  
Bahadur Malik.  
Amir Hussain, Khan Bahadur Saiyid.  
Anklessaria, Mr. N. N.  
Anwar-ul-Azim, Mr. Muhammad.  
Bajpai, Mr. G. S.  
Bhore, The Honourable Sir Joseph.  
Bower, Mr. E. H. M.  
Dalal, Dr. R. D.  
DeSouza, Dr. F. X.  
Dunn, Mr. C. W.  
Dutt, Mr. G. S.  
Fazal Haq Piracha, Shaikh.  
Fox, Mr. H. B.  
Graham, Sir Lancelot.  
Greenfield, Mr. H. C.  
Gwynne, Mr. C. W.  
Haig, The Honourable Mr. H. G.  
Hezlett, Mr. J.  
Hudson, Sir Leslie.  
Ishwarsingji, Nawab Naharsingji.  
Ismail Ali Khan, Kunwar Hajee.  
James, Mr. F. E.  
Jawahar Singh, Sardar Bahadur  
Sardar.  
Mackenzie, Mr. R. T. H.  
Macqueen, Mr. P.

Meek, Dr. D. B.  
Metcalfe, Mr. H. A. F.  
Mitter, The Honourable Sir Brojendra.  
Moore, Mr. Arthur.  
Morgan, Mr. G.  
Mukherjee, Rai Bahadur S. C.  
Nayudu, Rao Bahadur B. V. Sri Hari •  
Rao.  
Nihal Singh, Sardar.  
Noyce, The Honourable Sir Frank.  
Parsons, Sir Alan.  
Rafuddin Ahmad, Khan Bahadur  
Maulvi.  
Raghubir Singh, Kunwar.  
Rajah, Rao Bahadur M. C.  
Rau, Mr. P. R.  
Ryan, Mr. T.  
Sarma, Mr. B. S.  
Schuster, The Honourable Sir George.  
Scott, Mr. J. Ramsay.  
Sher Muhammad Khan Gakhar,  
Captain.  
Singh, Mr. Pradyumna Praahad.  
Smith, Mr. R.  
Sorley, Mr. H. T.  
Suhrawardy, Sir Abdullah-al-Mamun.  
Tottenham, Mr. G. R. F.  
Wilayatullah, Khan Bahadur H. M.  
Yakub, Sir Muhammad.  
Yamin Khan, Mr. Muhammad.  
Zulfikar Ali Khan, Sir.

The motion was negatived.

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

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

**Mr. S. C. Mitra:** I beg to move:

"That in sub-clause (J) of clause 4 of the Bill, the words 'to harass any public servant in the discharge of his duties, or' be omitted."

Sir, having failed to induce the House for the deletion of the whole clause, I am now suggesting some amendments to purge this clause of some of its objectionable features. The words are "harass any public servant". The phrase is very vague, as has been submitted by some Honourable Members in their speeches. The dictionary meaning is "to repeat, to worry, or to vex with repeated request". Now, "to be worried" depends more on a person's temperament, and on the condition of his health, than anything else. What I mean is that this is more a subjective affair, and it will depend upon the particular public servant who may get worried or troubled by a particular conduct. I think it is not possible, even for Government to set up a standard of measure as to what will amount to harassment. Different Magistrates have different ideas, and.

[Mr. S. C. Mitra.]

equity varying with the Chancellor's foot, the standard of harassment will vary with the temper of each Magistrate. Therefore, even if it be found necessary to have a clause of this type, I suggest that at least the words "to harass any public servant in the discharge of his duties" should be omitted. Sir, I move.

**Rao Bahadur B. V. Sri Hari Rao Nayudu** (Madras: Nominated Official): Sir, I rise to oppose the amendment. Honourable Members of this House are fully aware, Sir, that the Congress has always been preaching the boycott of all Government officials, as a plank in the civil disobedience movement. What is the sin, Sir, that the Government officials have committed to deserve social persecution? They say, we are soon having at least provincial autonomy. The Madras Province, for instance, from which I come, is going to have 215 legislators. Now, Sir, can it be said that these 215 legislators alone or even double their number can govern the whole Presidency?

**Sir Muhammad Yakub**: That is not the question. The question is that that phrase be deleted.

**Rao Bahadur B. V. Sri Hari Rao Nayudu**: They can only legislate. Sir, legislation is only a means to an end and not the end itself. The end is the good administration of the country. Can any Legislature carry out their legislations without the help of the administrative machinery? If tomorrow the Congress comes into power, there will surely be somebody sitting in the Opposition. In that case, will the Congress allow Government servants to be disloyal to the party in power? And does any sane man contend that Government servants should not whole-heartedly carry out the orders of the Government of the day? If not, in such a case, should the Opposition, to whatever party it may belong, advocate persecution of these Government servants, simply because they are loyal to the party in power, however autocratic that party may be?

In politics, friends of today may be enemies tomorrow. Honourable Members might have seen in the newspapers about the present relations between Mr. De Valera, President of the Irish Free State and his erstwhile comrade, Mr. Cosgrave. What would become of Mr. De Valera's Government if the army and the police were to side today Mr. Cosgrave, and disobey the existing Government's orders?

I contend, Sir, that a good public servant is as much an asset to the country as, if not more than, a good legislator. It is he who has to bear the brunt of the whole administration. It is he that really comes in direct contact with the masses and it is to him that the vast population look for sympathy and impartiality. There may be, I admit, Sir, black sheep in Government service, as there are in every walk of life. But such black sheep can be removed from service only with the help of public opinion and not by persecution of all Government servants. My Honourable friend, Mr. Puri, had admitted during the Simla debate that the majority of the people had still got faith in the impartiality of the Courts. Government servants must be thankful to him even for such small mercies; may I point out to him, Sir, that whether the future generations will continue to enjoy the benefits of this impartial administration of justice, which is largely due to the high traditions of the Indian Civil



Service during the last 150 years, depends more upon how the Government servants are allowed to discharge their duties without fear of persecution by any political organisation whether it may be in power or in the Opposition. In my humble opinion, Sir, public servants should not be drawn into the whirlpool of politics.

Thanks, Sir, for the foresight of the present Government, the establishment of the Public Service Commissions goes to a great length to avert the dangers to which public servants may have to be exposed otherwise, and, in our Presidency, Sir, the Legislature has very wisely transferred recently the power of appointing even the Public Service Commissioners from the Governor-in-Council to the Governor himself.

It is a great consolation to all Government servants to learn that the services may not be hereafter used as pawns by politicians. I should say that the Government have done another piece of good service to the public servants by including in the Bill, which we are now discussing, the provisions relating to the boycott of public servants.

I would appeal in this connection to all Honourable Members of this House not to forget that public servants carry out their orders. My Honourable friend, Mr. Ramakrishna Reddi, has said: "I have a duty to perform, to my constituency". Sir, may I appeal to the Honourable Members of this House, elected and nominated, that they have a duty as well to perform to the thousands of public servants who carry out their orders in the face of all difficulties? If the legislators cannot support the public servants in the difficult task of carrying out their own orders, how can they expect to get good recruits to the public service in future? Surely they can get public servants, Sir,—Magistrates, Collectors and even High Court Judges,—on a pay of Rs. 100 per mensem with the prospect of making hundreds and thousands of rupees per mensem in other ways. But to have a contented public service to complement a good Legislature for the good administration of the country, every reasonable safeguard should be given to the Government servants by the Legislatures, to prevent their being persecuted and harassed in the lawful discharge of their duties. Legislation is only the outcome of past experience. My Honourable friends cannot shut their eyes to facts. They all know to what amount of persecution public servants have been subjected to in the discharge of their duties in the civil disobedience movement of 1930-31 and in the non-co-operation movement of 1920-21. There were 136 resignations by village officers in 1921-22 in the Kistna District of the Madras Presidency where I was then serving, and there were wholesale resignations of village officers in the Telegu Delta Districts, especially in Guntur and Godavari Districts, where the Congress movement was very strong. To my knowledge, 29 Government servants, other than village officers and village servants, resigned in those two periods. It is only on account of the strong attitude of the Government that there have been very few resignations this year in the Madras Presidency. Nearly 500 patels and 1,000 village servants resigned in the Districts of Surat, Ahmedabad, Kaira and Broach, as stated by my Honourable friend, Mr. Sorley, in the first month of the civil disobedience movement in 1930. In these districts, village officers who did not resign were not allowed free access to the village water supply, and the ordinary necessities of life were not allowed to be sold to them. Village officers were threatened with boycott and social ostracism. Supplies and means of transport were

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withheld from touring officers. Even officers of higher grade were given notice to quit the houses they were occupying. It is only the strong action of the Government that has put down this boycott in this year's movement. It, therefore, behoves all Members of this House to see that similar persecution is not repeated at any time in future, irrespective of the existence or not of the civil disobedience movement. The Select Committee has removed all unreasonable restrictions which, in their opinion, the provisions of the original Bill imposed on the fundamental rights of citizenship. But I would earnestly appeal to the House that Honourable Members should also bear in mind that Government servants are entitled to equal rights of citizenship in this country as anybody else whom my Honourable friends may represent, and that Honourable Members should not forget this fact while giving their best consideration to the recommendations of the Select Committee on this clause and the amendment now proposed thereon. (Cheers.)

**Mr. Gaya Prasad Singh** (Muzaffarpur *cum* Champaran: Non-Muham-madan): I have listened with amused interest to the written essay of my Honourable friend who has just sat down; but I wonder whether all that he said on the present occasion was relevant to the specific motion before the House. He should have reserved his speech for the third reading of the Bill.

It is quite natural that an official Member should only be too glad to support a motion which fortifies him and his confreres in a position of privilege and power, and anything that tends to bring him down to the level of the ordinary citizen should be resented by him. I hold that this clause of the Bill seeks to entrench the ordinary official into a position of privilege which is denied to other classes of ordinary citizens. My objection is to the whole clause itself, but since it was not found possible to delete the whole clause, I have to accord my support to the amendment of my Honourable friend which is under discussion. The word "harass" is really an indefinite expression which might mean anything or very little. What might harass me, for instance, may not be sufficient to harass a man of a different temperament. It is in this view of the matter that the word "harass" which is incapable of precise definition has found a place in this clause. "Harass" might mean fatigue, to exhaust, or to tire and, so on. It might have other meanings. I am not going to enumerate all the possible meanings which the word might connote in an ordinary dictionary, but this expression "harassing a public servant in the discharge of his duties" is really a vague expression. Now, with regard to the word "discharge of his duties". I should like to enquire from my Honourable friend, the Home Member, or his colleague on his right, whether this clause is going to apply to a public servant who is actually on leave. This was a matter which we discussed in the Select Committee, and the impression which I carried with me was that this clause is going to apply also in the case of a public servant who may be on leave, because the elements enumerated in this clause might induce him to terminate his service even when he is on leave. Therefore, it is quite necessary for the Government to define the precise scope of the expression which is used in this clause. Since there has been no precise definition of this clause, I am only compelled to ask this specific question of the Government whether this clause is going to operate in the case of a Government

servant who is actually on leave. If so, the position becomes more dangerous. With these words, I support the motion which is now before the House.

**The Honourable Mr. H. G. Haig:** Sir, it is necessary to remember that in order to establish an offence under this clause, intention has to be proved. It is not, I think, a reasonable suggestion that the intention which has to be proved should be strictly limited to only certain of those objects which the boycotters are pursuing. It is perfectly true that in some cases the object of the boycotter is to make the public servant terminate his services, but it cannot be said that in every case that is the precise intention and, indeed, it would be exceedingly difficult to prove. The more general intention is to prejudice or to harass a public servant in the discharge of his duties, to cause him to fail in his duties, to dishearten him, to make it difficult for him to act as he should act. It is necessary, therefore, if this clause is to be effective, that this general provision should be maintained. The particular objection which has been taken to the word "harass" might be taken to whatever word we choose. Actually in the original draft the word used was "prejudice". Certain Honourable Members of the Select Committee, among whom, I think, probably my Honourable friend, Mr. Gaya Prasad Singh, was numbered, said that that word was not a suitable word. We looked through the dictionary and we tried to secure a suitable word and, after a good deal of reflection and discussion, this was the word selected as most suitable to express what we had in our mind. With regard to the particular point that has been put as to whether it is possible to use this clause in regard to a public servant on leave, it depends entirely on the circumstances. It may well be that when a public servant is in his home, pressure may be brought to bear upon him through the method of boycott intended to make him terminate his services. In such a case, it would undoubtedly apply to a public servant whether he is on leave or whether he is anywhere else.

**Mr. B. V. Jadhav:** The question is whether "harassment" will apply to an officer on leave.

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

"That in sub-clause (1) of clause 4 of the Bill, the words 'to harass any public servant in the discharge of his duties, or' be omitted."

The motion was negatived.

**Mr. S. C. Mitra:** Sir, I move:

"That in sub-clause (1) of clause 4 of the Bill, before the word 'duties' the word 'lawful' be inserted."

Having failed to carry the previous amendment, I now like to have the word "lawful" inserted before the word "duties", so that it may be more specific. It has been argued by Honourable Members on this side that the duties of particular public servants may not be known and some officers in their enthusiasm may get into their head an exaggerated sense of their duty. If it is not specifically said that the duties here are intended only to mean lawful duties, then there may be chances for an abuse of this clause. If a superior officer conveys an order to an inferior

[Mr. S. C. Mitra.]

officer, that officer is bound to carry out that order, whether it is legal or illegal. To make these cases specific and definite, I suggest that Government might accept the addition of the word "lawful" before the word "duties". Sir, I move.

**Mr. K. P. Thampan** (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, I beg to support this motion. Sir, it may be said that in law the use of the word would imply only duties that are lawful; but, Sir, the word "duties" has very wide meaning and it is, I submit, proper that the meaning of it should be restricted. I shall illustrate my point by narrating the instance of the behaviour of an Inspector of Religious Endowments in Madras, whose name I shall not mention here. He went to a temple in Malabar and, having examined the accounts and other things, he went to worship in the temple. Now, the custom there is that people should leave their *sandals* and shoes outside, but this gentleman thought it *infra dig* to take his *sandals* off. There would have been trouble if some elderly men had not intervened. Of course, as a matter of fact, it was not his duty to go there with shoes on. Sir, such instances of abuse of duty very often occur, and, in view of the fact that we are bringing within the scope of the clause all kinds of public servants, including those of the local boards, and utility service companies, it is highly desirable to restrict the meaning of the word as far as possible. Sir, it is one thing in the case of the higher officials, but it is quite another in the case of illiterate and low-paid servants of taluqa boards and utility services. The chances of abuse among the latter class are very much more than among the educated and well paid public servants. Then, there is the point raised by my Honourable friend, Mr. Jadhav, about the duty of officers on leave. Do they discharge any lawful duty while on leave? It is better, therefore, to avoid all such difficulties by inserting the word "lawful" before the word "duties".

**Mr. B. V. Jadhav**: Sir, I rise to support the amendment. As the definition of the words "public servant" has been extended even to servants of local bodies, I think the adjective "lawful" should be prefixed to the word "duties" in order to properly explain and confine the meaning of the word. We know that the presidents and chairmen of the managing committees of some of these local bodies are very important persons and that some of the low-paid subordinates are working for them in capacities which cannot exactly be called their duties. Now, as the order of a superior officer must be obeyed by a servant, a servant may look upon any order of the chairman or the president as one which he ought to discharge, although that may not be his proper or lawful duty. Therefore, when one happens to trouble or harass such a servant, that one ought not to be hauled up before a Court of law for committing a crime under this clause. For this reason, Sir, I submit that the word "lawful" ought to be inserted before the word "duties".

**The Honourable Sir Brojendra Mitter** (Law Member): Sir, if I were convinced that there was any ambiguity in the word "duty" and that in order to clear that ambiguity the word "lawful" should be inserted before the word "duties", I would not have hesitated to accept the amendment. But my submission is that by using the word "lawful", you would be introducing an ambiguity which is not there now, and I shall presently

make my position clear. The word "duty" in law means "a legal obligation", and, at the risk of annoying my friend, Mr. Amar Nath Dutt, I shall again quote from Salmond's Jurisprudence. Sir, Salmond says :

"A duty is an obligatory act, that is to say, it is an act the opposite of which would be a wrong. Duties and wrongs are correlatives. The commission of a wrong is the breach of a duty, and the performance of a duty is the avoidance of a wrong."

Sir, in law, the word "duty" has a definite connotation. If you introduce the word "lawful", what would the implication be? If you say "in the discharge of his lawful duties", could there be discharge of an "unlawful duty"? What is the antithesis? An unlawful duty would be a contradiction in terms, because "duty" means "a legal obligation". That being so, by using the word "lawful", you immediately bring in the idea of the possibility of an unlawful duty, which is of course absurd.

**Sardar Sant Singh** (West Punjab: Sikh): May I interrupt my Honourable and learned friend? I must draw his attention to the fact that in sections 332, 333 and 353, of the Indian Penal Code, the expression used is "in the lawful discharge of his duty as a public servant".

**The Honourable Sir Brojendra Mitter**: Sir, I am not dealing with the phrase "lawful discharge": I am dealing with the phrase "lawful duty": and every word must be read in its proper context. I am dealing with clause 4 now. The interruption to my mind is irrelevant. With regard to Mr. Jadhav's point, the discharge of a duty by a public servant is the discharge by him of a duty imposed upon him by law, and not a duty such as he conceives it to be. Therefore, there is no ambiguity in the word "duties". The addition of the word "lawful" would introduce ambiguity. I oppose the amendment.

**Sardar Sant Singh**: Sir, as the whole clause has been retained by the vote of a majority of this House, I am not at liberty to discuss it as such, but taking the context of the clause, it will be necessary to reduce, as much as one can possibly do, the rigor of its working. Sir, it will not only be in the interest of the Opposition that a law should be very definite, but it should be such as will in practice enable those who put it to actual use to put the right interpretation upon the terms used. The clause, as it now stands, states:

"Whoever, with intent to harass any public servant in the discharge of his duties, or to cause him to terminate his services or fail in his duty,"

Here the words are "in the discharge of his duties". We know that it would be the duty of a public servant to go to a place when his superior officer asks him to go there. But would that be his lawful duty? It may be his duty to obey the superior officer in his own interest, but it would not be his lawful duty as a Magistrate. Similarly, a public servant in any other capacity will be in the same position. Take, for instance, a railway servant. He may also be doing his duty when he is asked by a Stationmaster or some other superior officer to go to the town and fetch something. The word "duty" will convey the sense of obedience or loyalty to the superior officer or to the Court to which he belongs, but it would not be a lawful duty, a duty imposed by the Statute under which he is working at the time. It may be a duty of a servant to obey his master even if the order of the master be unreasonable. I will illustrate

[Sardar Sant Singh.]

it by an example which will look absurd on the face of it. Supposing a master asks his servant to murder a person, what will be the result? It will be the duty of the servant to murder the man, and if anybody harasses him in the performance of his duty, he will be brought under the purview of this clause. (A Voice: "The master may be mad.") It may be so. That is why I preceded it by saying that it may look to be an absurd example, but it is not really so absurd. Take, for instance, the case of a soldier. An order is given by the superior officer to fire and, later on, the order is found to be illegal and the man is hauled up for murder. The question before the Court and the jury would be whether the man was guilty of murder or not. The defence may be taken that he was performing his duty. He stood between two cross fires—either to be court-martialled for not obeying the order of the Military authority or to be sent for by the civil authority, put in the lock-up and tried for man-slaughter. These are not absurd examples, and neither the persons who gave such orders were mad. It was the *bonâ fide* judgment of the officer to issue the order, and it was the *bonâ fide* duty of the soldier to carry out that order. These are not imaginary cases; these are the reported cases. If the amendment asks that there should be some limit placed on that duty, it is a fair request. My friend objects to the word "lawful" and he is probably enamoured of the words "lawful discharge of his duty". Let the amendment come from the Honourable Member himself that it should be the lawful discharge of his duty as a public servant who would be protected. They will thereby limit the scope of the clause and will help in the interpretation of it. I, therefore, support this amendment.

**The Honourable Mr. H. G. Haig:** Sir, I need not say more than one word, because my Honourable colleague has already dealt with the point of law. All I wish to say is, that it will be for the Court to interpret what is the duty of a Government servant, and I do not think the Court will have very much difficulty in arriving at a conclusion. My Honourable friend, Sardar Sant Singh, seemed to be very sympathetic to Government servants and suggested that they were constantly in doubts and difficulties as to what was their duty. Well, Sir, as a Government servant, I can assure him, that that is not a case that frequently arises. I never remember myself being faced with any great perplexity in knowing what was my duty as a Government servant and what was not, and I do not think that the Courts will have any difficulty in solving these problems.

Sir, I oppose.

**The Honourable Sir Brojendra Mitter:** May I answer a question which was directly put to me by Sardar Sant Singh? My Honourable friend mentioned some cases of a soldier shooting, and so on, but he forgot that in all those cases under the sections of the Indian Penal Code it is the duty of the accused which is before the Court. Here it is not the duty of the accused, but of the public servant.

**Mr. President** (The Honourable Sir Ibrahim Bahimtoola): The Honourable Member can only make a personal explanation at this stage.

The question is:

"That in sub-clause (1) of clause 4 of the Bill, before the word 'duties' the word 'lawful' be inserted."

The motion was negatived.

**Mr. S. C. Mitra:** Sir, I move:

"That in sub-clause (1) of clause 4 of the Bill, the words 'to deal with, or' be omitted."

The purpose of these amendments of mine is to improve the clause if it is at all possible to do so. Clause 4 reads thus:

"Whoever, with intent to harass any public servant in the discharge of his duties, or to cause him to terminate his services or fail in his duty, refuses to deal with. . . ."

Now, this phrase "to deal with" is extremely vague and indefinite. It has been argued previously by my Honourable friend, Mr. Sen, that the dictionary meaning of the phrase "to deal with" is to associate with or to do business with. It is required that every body should be compelled under the pressure of law to associate with or to do business with the Government officials, the refusal of which will bring one, under the purview of this clause. If it is the purpose of the Government to spread the net too wide to catch all and sundry under some pretext or other, of course such phrases will help them: otherwise I do not see any reason why Government should not specifically say what they want the public at large to do by the public servant. It has been said, the public is to let on reasonable rent houses to, cultivable lands for, and render other customary services to, public servants, but what Government mean by the words "deal with" is not clear to me. I do think that this clause at least should enact a law which should be very specific and definite so that even an ordinary man in the street may understand what may be demanded of him by law. So, I suggest that at least this phrase "to deal with" might be omitted from this clause.

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

"That in sub-clause (1) of clause 4 of the Bill, the words 'to deal with, or' be omitted."

**The Honourable Sir Brojendra Mitter:** Sir, my Honourable friend Mr. Mitra's objection to the expression "deal with" is that it does not convey any clear idea of what is in the mind of the Legislature. Sir, "to deal with" is not a technical expression. It is a popular expression and the meaning of it is to be gathered from the dictionary, and the meaning of it has already been mentioned by my Honourable friend himself. One of the meanings is "to do business with". That is, precisely what we mean. When a public servant goes to a village, he wants to go about from place to place. Suppose taxi-cabs ply for hire there and the owner of the taxi-cab refuses to deal with him, because he is a public servant, then he would come within the mischief of this clause. Or take the case of a village grocer whose business is to supply groceries to anybody who is willing to pay the proper price. If the grocer refuses to supply goods to a public servant, then that grocer refuses to deal with that public servant.

3 P.M. Instances may be multiplied, but it is not necessary that in a clause you should enumerate all the various things which might come within the purview of dealings between man and man. The words "supplying goods" were in the original Bill, but were omitted if the Select Committee. I have tabled an amendment for the insertion of these words

[Sir Brojendra Mitter.]

which will remove all ambiguity whatsoever as to what sort of dealings we are thinking of. From the whole clause it is abundantly clear that we are thinking of residence, we are thinking of locomotion, we are thinking of food and we are thinking of customary services to which a man, living in ordinary civilised society, is entitled, like the services of a washerman, the services of a sweeper, the services of a barber and things of that sort. When one reads the whole clause, he can have no doubt in his mind as to what sort of dealings we are thinking of. In order to make it more clear, I have tabled an amendment. I submit, the words "deal with" are not ambiguous. Sir, I oppose the amendment.

**Mr. S. C. Sen:** I had no intention of speaking on this motion as I had already made my submission as regards these words "deal with" in the speech which I already delivered. Sir, the Honourable the Law Member has explained to us what "to deal with" means. What is the dictionary meaning of the words "deal with"? There are two meanings in the dictionary, one is "associate with", and another is "to do business with". He is not dealing with a man when he refuses to associate with him.

**The Honourable Sir Brojendra Mitter:** When there are several meanings to a word, the meaning which is appropriate in the context is to be adopted. The meaning "to associate with" would be absolutely out of context.

**Mr. S. C. Sen:** Well, Sir, I am a Solicitor of some standing and I am supposed to know the meaning of every word which we use in our documents. Therefore, Sir, the explanation which has been given by the Honourable the Law Member is not new to me. But, Sir, what is the context here? The context is "to deal with on the terms on which such things would be done in the ordinary course". The barber of my village may come to me and say: "I want to associate with you upon the terms in which I am accustomed to do in the ordinary course". Is there anything wrong in the context about that? So both the meanings can be attached according to the whims and fancies of the person who tries the case. That is the reason why I say that the expression "to deal with", having regard to the context, leads us to absurdities.

The Honourable the Law Member has tabled an amendment to make the meaning perfectly clear. I would have fully agreed with him if he had stopped short of two words in the amendment which he has tabled. The amendment was originally tabled in the name of the Honourable the Home Member, but it is now given in the name of the Honourable the Law Member. The amendment runs:

"That in sub-clause (1) of clause 4 of the Bill, after the words 'refuses to deal with' the words, 'whether by supplying goods to, or otherwise', be inserted."

Well, Sir, what is the meaning of the expression "or otherwise"? Every day we use the words "or otherwise" simply to confuse people by vagueness. I admit that. We include in the words "or otherwise" everything we can conceive of. So, how is the Honourable Member removing the admitted ambiguity by the amendment which he is going to move? If he will agree to the deletion of the words "or otherwise", I think, Sir, he will remove the ambiguity and will make the clause applicable only to the case of supplying goods. With these words, I support the amendment.



**Sardar Sant Singh:** Sir, this expression "to deal with" as well as other expressions that follow are a serious inroad upon the rights of ownership of property of individuals. Herein a provision is made that a person is to be penalised, simply because he refuses to deal with a particular individual who happens to occupy a place in the service of the State. What is required is that he has to deal with public servants in all the terms described in the clause, that is, on such terms as such things would be done in the ordinary course. My objection to this serious inroad on the ownership of property is this. Supposing a person wants to purchase lands. I think it has been made clear in this House that this provision is not limited to those cases only when the public servant is on duty at a particular place where he is posted, but this provision is also applicable to the public servant when he is on leave. Take the case of a public servant who goes to his original home on leave and there he wants to purchase property. Well, a bogus offer is made to the owner that he should sell his property for Rs. 2,000, while the property is really worth Rs. 10,000. The public servant goes there and asks the owner: "here is an offer for Rs. 2,000. I make you the same offer and let this property be sold to me for Rs. 2,000". Or, take another instance; properties generally pass for certain considerations at much lower value than their original worth. Well, those considerations do not exist in the case of the public servant. He makes an offer saying that "you are already parting with this property or intend to part with this property at a certain consideration. I claim preference over the intending purchaser, otherwise you are to be penalised if you do not deal with me". Will this not be a serious inroad on the right of ownership of property? Those Honourable Members, who sit quietly today or who vote with the Government, will find that, if this clause is seriously worked in practice, then, the valuable right in the property, which they possess, would be taken away. My submission is, Sir, that if the expression "to deal with" means to do business, there may be several considerations on account of which a person may not like to do business with a public servant. Take the instance of a public servant who is a bad paymaster. A shopkeeper says: "I refuse to deal with you." Well, generally when a shopkeeper does not want to deal with a particular individual, because he is a bad paymaster, then the shopkeeper tells that individual: "I have not got the thing you ask for." If the public servant could prove that the shopkeeper had the article in question which he asked for and he refused to deal with him, in that case the shopkeeper is penalised. Are you not aware, Sir, of many instances where Government servants have been sued for the recovery of rent of houses they occupied, for the recovery of the cost of goods they purchased from the market which were not paid for? Is there any town which is free from such suits? Are not the Courts in all towns full of such suits and are not decrees obtained against public servants? Are there no public servants whose salaries are deducted on account of Court decrees and attachment of their salaries are made through the Accountant General? Here, by enacting a clause like this in the Bill, you are making a serious inroad upon the liberty of actions, liberty of trade and commerce of an individual for no fault of his. Do the Government mean to say that if a shopkeeper is prosecuted, he could go forward and make a defence in the open Court to the effect: "here is a public servant. I did not deal with him, because he is a bad paymaster." Will such a defence be a valid one and will this exculpate the individual who is charged with such offence? I ask this question in all seriousness. If the clause is retained, as it stands, and if a person is dragged into Court, because he refuses to

[Sardar Sant Singh.]

deal with a public servant, and if that person gives out in open Court the real reason why he refused to deal with the public servant, namely, that he was a bad paymaster, then that person may be run in later for defamation. If that is said to a public servant, he will go and lodge information against him. Therefore, if he gives the right reason, he is in for defamation; if he refuses to give the right reason, he is in for this offence. Where is the safety? The whole safety is taken away by keeping this expression. I think it is quite logical that this general expression should be omitted from this clause.

**The Honourable Mr. H. G. Haig:** Sir, my Honourable friend, Mr. Sen, is no doubt reinforced by the authority of the dictionary, and is better acquainted with the meaning of the words "deal with" than I am. But I must say that it was news to me to hear that "deal with" means "associate with".

**Mr. S. C. Sen:** That is the meaning given by the Oxford Dictionary.

**The Honourable Mr. H. G. Haig:** I bow to his authority, but I will only say that it is not to my mind the ordinary normal meaning of the phrase. I should say, without attempting any dictionary definition, that it means "to have transactions with", and no question of association to my mind arises.

Sardar Sant Singh attacked the phrase on the ground,—I took down his words,—that a man would be punished, simply because he refused to deal with somebody. Sardar Sant Singh is well aware that another matter has to be proved beyond refusal to deal with any person and that is, as we have repeated so many times in this House, what was the intention. That is vital; it is not a mere refusal to deal with a person, but refusal to deal with a person with an intention to harass him in his duties as a public servant. And there can be no question of refusing to sell property in my opinion coming within this clause. There is no obligation on anybody to sell his property to anybody else. In the case of a shopkeeper, in the case of a person who offers anything for hire, there is a presumption that he should, unless for some good reasons, supply those goods or those services, and there is then some possibility of proving that his refusal is a refusal with a bad motive. But in the case of selling property there is no possibility of proving such a thing, in my opinion.

Sir, I oppose.

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

"That in sub-clause (1) of clause 4 of the Bill, the words 'to deal' with, or be omitted."

The motion was negatived.

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

"That in sub-clause (1) of clause 4 of the Bill, after the words 'refuses to deal with' the words 'whether by supplying goods to, or otherwise' be inserted."

In the discussion on the previous amendment we covered a lot of ground and it remains for me only to explain the words "or otherwise" to which my clever friend, Mr. Sen, took exception. Here we are giving an illustration of dealings; and one of the illustrations is supplying goods. Mr. Sen says, what do the words "or otherwise" means? Sir, they would cover other necessary transactions, and I shall mention only a few. Take the carriage of goods. A public servant goes to a railway station and his lodgings are a mile away. He wants the services of porters who ordinarily carry goods for a remuneration. If a porter at the station refuses to deal with that man, merely because he is a public servant, he would come within the mischief of this clause. That is one illustration; I will give another. Take the supply of transport. An owner of *ticca-gharis* keeps a number of vehicles at the railway station and plies them for hire. If he refuses to let his *ticca-ghari* to an officer, because he is an officer, he would come within the mischief of this clause, provided always that the intention mentioned in the clause is present. I give another illustration. Suppose a man wants to have his horse shod. He goes to the farrier who ordinarily does this sort of work and he refuses to shoe the horse of the public officer, because he is a public officer, the clause comes in. For the sake of clarity, we give one illustration and "or otherwise" would cover necessary transactions of a similar nature. I hope the House will have no hesitation in accepting the amendment.

**Mr. S. C. Mitra:** Sir, I would have been glad to accept this amendment had the words "or otherwise" not been inserted. My objection to the words "deal with" was that it was so indefinite that people will not be able to ascertain their real position. Now, after the speech of the Honourable the Leader of the House, it is clear that the words "or otherwise", according to his own illustrations, might be explained in a thousand ways. That is what should be avoided in enacting laws so that even the ordinary layman may understand what specifically is wanted by Government by these provisions. Really it is an improvement to say that "deal with" refers to supplying goods. That shows definitely that Government are anxious to have the co-operation of the people as regards this one element, but the words "or otherwise", as has been explained just now, may mean anything; and certainly it is open to the objection of indefiniteness. If Government agree to take away the words "or otherwise", there will be no objection from this side; otherwise we will oppose this amendment.

**The Honourable Mr. H. G. Haig:** Sir, I do not think there is anything I need add to what my Honourable colleague has already said, except that, by inserting these words, we really do, as he has suggested, make the meaning of the words "deal with" more definite than before, and at any rate remove all possibility of Mr. Sen's interpretation of "associating with".

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

"That in sub-clause (1) of clause 4 of the Bill, after the words 'refuses to deal with' the words 'whether by supplying goods to, or otherwise' be inserted."

The motion was adopted.

**Mr. K. P. Thampan:** Sir, I beg to move:

"That in sub-clause (1) of clause 4 of the Bill, the words 'or land not being cultivated land to' be omitted."

[Mr K. P. Thampan.]

It has been provided that houses usually let for hire ought to be given to Government servants. But I cannot understand why lands should be given to these people.

**An Honourable Member:** For vegetable orchards.

**Mr. K. P. Thampan:** I am glad to find that the Select Committee has considerably improved the original draft. According to the original draft, lands of all kinds had to be let and could not be evicted from these people. In Malabar and other places, under the ryotwari system, very often the landholders evict the lands from the tenants. It may happen that Government servants, including higher officers, are the relatives of the tenants. My own family has got about a score of Deputy Collectors, tahsildars and police inspectors and such kind of Government servants who are our tenants. Of course, they do their duty elsewhere, but the manager or some member of the family holds the land. If we are to sue for the eviction of such lands, it might be alleged that the motive of our eviction was to harass the Government servant concerned. It is therefore, a great relief that the Select Committee has thought it desirable to exclude from the scope of this Bill cultivable lands; but, again, the question of land remains there. Lands are put to several uses and, as a landlord, I for one can not allow this thing to go through unprotected. There is no use, as far as I can see, of lands for Government servants for the discharge of their duties. This privilege is extended also to the members of his family. In the undivided Hindu families in Malabar, there are in certain houses as many as 250 or 300 members and this is certainly a very wide privilege that is likely to be abused. It is open to any of these wide circle of people to trace their relationship in cases of eviction or refusal to let out a land—and the very fact that they live in the same family or *tarwad* is sufficient proof for it—and makes out the case that the intention of the landlord was to harass the Government servant. It is therefore highly risky to keep the word 'land' there. I therefore move that this word be deleted.

**The Honourable Mr. H. G. Haig:** Sir, this is a very simple provision and I think a very reasonable one. The object is that Government servants should be able to secure some kind of accommodation in places where their duties may take them; and we are so reasonable as to admit that in some places it may not be possible to get a house; and, if that is so, surely we cannot deny them the right to have some place where they can spend the night and rest and pitch their tents. It is the case that where there is a boycott of this kind, it may not only be impossible to find a roof to shelter the Government servant, but that even the zamindars may refuse to allow him to pitch a tent. It is, with a view to conditions of that sort, that we have inserted this provision in the Bill.

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

“That in sub-clause (1) of clause 4 of the Bill, the words ‘or land not being cultivated land’ be omitted.”

The motion was negatived.

**Mr. S. C. Mitra:** Sir, I move:

"That in sub-clause (1) of clause 4 of the Bill, the words 'or to render any customary service to such public servant or any member of his family' be omitted."

It has been urged from this side that it will be very difficult to know what are the customary services. Take a simple example; an officer may think that it is customary for him to have *salaams* from all the people that may go to meet him. I do not grudge it to an officer who can earn them by his good behaviour, but to enforce it by an enactment of law . . . . .

**Sir Muhammad Yakub:** Is it a customary service?

**Mr. S. C. Mitra:** Customary service is not explained anywhere, that is my complaint; and an officer may think that this is a customary service for him to receive those *salaams*; and my Honourable friend, Sir Muhammad Yakub, may know what were the troubles in the jails about this *sarkar salaam* . . . . .

**Str Abdulla-al-Mamin Suhrawardy** (Burdwan and Presidency Divisions: Muhammadan Rural): I know it.

**Mr. S. C. Mitra:** My teacher knows it all right, because he was an Honorary Visitor of jails for a long time. So my complaint is that it is not known what is customary service. In my part of Bengal, in villages barbers, washermen and potters always get lands or, what we call, service *jaigirs* and, in return, they do shaving and washing, and supply pots free, because they have *jaigir* lands free from a very very long time. Will all these officers demand free shaving and free washing and free supply of these things? It is so vague: that has been my complaint against this clause all along, that it will be perhaps an instrument of tyranny for petty officials, more particularly when it is known that it has become the custom for the lower classes of police officers to get almost everything free. That has become customary; even the *beqar* system was customary in India for a long time. That is the reason why I want that at least these particular words might be omitted.

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

"That in sub-clause (1) of clause 4 of the Bill, the words 'or to render any customary service to such public servant or any member of his family' be omitted."

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Rural): Sir, I am really sorry to see that none of the vague words which appear in this Bill appear to the Honourable the Law Member as vague or ambiguous. Every time when it was pointed out that a particular word was ambiguous and vague and that it should be defined, the reply that came from the Government side always was that the meaning was very clear and unambiguous to the Honourable the Law Member, though, at the same time, he referred us to the meaning of such expressions to several dictionaries or to some books on jurisprudence or he took us to the Penal Code for principles or got help from the Criminal Procedure Code and other Statutes. Therefore, it only means that because the Bill has been once drafted, Government want that it must be passed only in the form drafted by them. Sir, that mentality is not a judicial mentality at all.

[Mr. Lalchand Navalrai.]

Now, leaving as a matter of fact, the words "duty" and "customary services" are very difficult to define. It was suggested a little while ago that duty would mean and should mean a lawful and legal duty and no other. My friend, Sardar Sant Singh, quoted section 353 of the Indian Penal Code to show that duty always meant a legal or lawful duty. The reply at once came from the other side that the words used in that section were "in the lawful discharge of the duty," and, as such, had no bearing on this clause, but really it is not so. The word in the Penal Code section is exactly the same as you find in this Bill and yet the meaning sought to be given to it is not restricted to a legal and lawful duty. I will read the section for the benefit of the Honourable the Law Member. Section 853, Indian Penal Code, says this :

"Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person, from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment" etc., etc.

Now, I shall quote only one decision on that point, which is given at page 658 of Starling's Criminal Law to illustrate that the duty contemplated is only a lawful duty :

"A peon in the Revenue Department was deputed by a forest settlement officer, under the authority of rules printed at pages 26 and 27 of Nairne's Revenue Handbook, to impress 15 carts for the use of the officer. The accused assaulted the peon and prevented him from seizing his cart. It was held that the foregoing rules had not the force of law, and that a public servant acting under them was not acting in execution of his duty, and consequently the accused was not guilty under this section."

Now, coming to the question of customary service, the Honourable Mr. Dutt this morning cited certain illustrations of customary services which he thought, if refused, would come under the provisions of this Bill. I have a high regard for my Honourable friend, Mr. Dutt, and I take it that he was conscientiously of the opinion that this evil of highhandedness of public servants which was once prevalent has now decreased; but I asked him how far had they improved, but no reply came. My point is that the illustrations he gave have no bearing at all on the point we are discussing. He said that if a public servant goes to a village and there if he does not get food from any hotel keeper, then that hotel keeper will come under this Bill, because, according to him this is a customary duty to render that form of service. I submit with great respect that it is not his duty to render that kind of service. Only those shopkeepers who have been licensed are in duty bound to give food, etc. . .

**Mr. G. S. Dutt:** On a point of explanation, Sir. I mentioned a case of hotel keepers who are licensed to supply food in the ordinary course to the public.

**Mr. Lalchand Navalrai:** I am very sorry to hear his explanation, because my friend must know that we have not got hotels in small villages.

**Mr. G. S. Dutt:** I was referring to a town, Sir, in which this actually happened, and I was not talking of a village, as my friend thinks. I said that it was in a town all the hotels refused to provide food to a certain body of public servants.

**Mr. Lalchand Navalrai:** I think it is an extreme case in which every hotel keeper refused to give food, but I do not think such a case will have happened. Supposing all hotel keepers, though licensed, refused to give food, why was it that in this case food was not secured from other various shop keepers in the town? However, if they are making a law with a view to mitigating the difficulty in villages where, it is said this evil prevails, another difficulty will arise. Suppose a private person goes there, and the shopkeeper in the village refuses to serve him or give him food, what is the provision in the law to show that he is not a free master to give or not to give food?

The other illustration to which reference was made by my friend, Mr. Dutt, was the one mentioned by Raja Bahadur Krishnamachariar about putting a load on a washerman's back. With regard to that also, perhaps my Honourable friend has got no experience, and perhaps he himself is so good as never to get such services from washermen. But the Honourable Raja Bahadur Krishnamachariar was not in his seat to reply to my friend and to point out the inaccuracy of what he said. Now, coming directly to the point, I do not think conscientious District Officers who are present in this House would really deny how things are done in villages, and I might give for their benefit one or two illustrations and ask the Government to tell me whether those cases will come under customary service or not. If they would come, then certainly it would be a very harsh law that is going to be enacted. It is well known that when a District Officer or any such officer wants to encamp in a certain village, usually a *chowkidar*, who in certain places is called a *kotwal*, goes in advance and calls upon the village people to collect 20, 30 or 40 men to do work that night for the officer who is expected there to encamp. Now, these poor people are not licensed at all. They are free people. Supposing those people don't render the services demanded of them by the *chowkidar* for several reasons,—because sometimes these *chowkidars* ask these poor people to pitch tents at midnight or that certain other things should be done at odd hours of the day or night for the convenience of the big officer who is expected to encamp there the next day, or that they are directed to fetch water from long distances at all sorts of odd hours,—would such people be prosecuted under this law if the officer feels himself harassed? The next day another officer might want to go for a *shikar* and would require 100 men. Suppose they are not coming out, and the officer may say: "Oh, it is customary service and we have always been getting the services of these men for our pleasures".

Therefore, I submit, that by introducing the words "customary service," you make the meaning ambiguous. What I want is that the word should be properly and clearly defined. Even the dictionaries will not give a clear meaning of these words. Would the Magistrates ask the Honourable the Law Member every time to send down his interpretation of these words?

**The Honourable Sir Brojendra Mitter:** A little common sense will do.

**Mr. Lalchand Navalrai:** The Honourable the Law Member has given one or two illustrations in which also, I submit, there is very much common sense. In the first place, did not the Honourable the Law Member give us the example of a coolie not serving a public servant? Coolies are licensed, and certainly there is a punishment, provided if

[Mr. Lalchand Navalrai.]

these licensed coolies fail to do their duty, by their dismissal, but suppose a public servant returns from leave and he asks a coolie at the Delhi station to take his luggage and the coolie refuses to take it, will that coolie come under this clause? The clause is too wide, it could be applied to anything at the mere whim and fancy of the public servant, and I, therefore, support this amendment.

**Mr. Arthur Moore** (Bengal: European): My Honourable friend, Mr. Mitra, has convinced me that there is not very much substance in this amendment, because of the instance which he took. He held out before us a prospect, alarming or dazzling according to taste, of free shaves for public servants. He talked about foolish officers, but I doubt if any officer would be so foolish as to compel a boycotting and disobedient barber, however civilly disobedient, to shave him (Laughter), or would submit his chin into his hands. (Laughter.)

**Sardar Sant Singh**: Enough has been said to explain the absurd conclusions to which this particular portion of the clause will lead us. I am not going to add any illustration of mine to the numerous illustrations that have been given in this House, but I want to say a few words on the situation that will arise if this particular provision were allowed to remain in the clause itself.

In the first place, the present Government, who are in charge of this Bill, know fully well that they are not responsible to the people and the people, even if they are exasperated by such foolish and absurd provisions in the penal law of the country, will have no power to turn them out of office. In any responsible country they will find themselves out of office if such absurd provision, as the rendering of customary service being made obligatory, is proposed. It is claimed that such a provision is necessary to safeguard the coming democratic constitution. I submit that it will be a negation of democracy if such provisions are needed in those times. Here, phrases are used in vague, undefined terms without having any clear meaning. For what purpose? To penalise the public later on. It is said that they have provided ample safeguards against the aggrieved person instituting proceedings recklessly, and requiring the proof of intention to harass. These are very good safeguards if the other party has to be heard before the proceedings are instituted. There may be numerous cases in which the vanity of a public servant, the prestige which he thinks attaches to his office, may lead him to harass the people, and the atmosphere prevailing in the particular area will be the deciding factor whether a particular prosecution is to be launched or not. Especially in these days when the atmosphere is vitiated, when an attempt is being made to clear the atmosphere, such a provision is sure to provide a handle of oppression in the hands of the public servant. We know that our strength here is weak and we cannot defeat the Government by our votes. But the Government themselves have a duty towards the administration. Do they think that by demanding customary services they will be improving the situation in the country? Are they going to introduce semi-slavery in India? What is it, if it is not slavery, to be asked, to render customary service whether I will it or not, simply because a particular individual will be harassed by my refusal? I suggest that



there is a certain limit to decency, and this provision goes beyond that limit. I will say, if you want the smooth running of the administration, you should think twice before you commit yourself to any such provision.

**Mr. B. Sitaramaraju** (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): I am very sorry to find that no Honourable Member who has given support to this wording "customary service" has come out with a proper definition of the phrase "customary service". All those who have laid stress on the word "customary" have given the miss on the word "service", and all those who have laid stress on the word "service", have given the miss on the word "customary". The only explanation that has been tried on the other side of the House, was when an Honourable Member sitting opposite me said that a hotel keeper who has refused to supply food to a Government servant would come under this clause as he failed in doing his duty by rendering the customary service of supplying food. I would respectfully ask the Law Member or any other Member on that side of House to say whether a hotel keeper who is bound to supply food for a certain payment could come under the term "customary service"? Is it customary service? (*Mr. Muhammad Yamin Khan*: "That comes up under 'deal with'.") That comes under "deal with", because it is a business proposition. There you pay a certain amount and the man is bound to give you food, and when a hotel keeper keeps a hotel, he tells the world: "Here I keep a hotel. Come whoever may like. You pay so much, and I give you food." If a discrimination is made against a Government servant, it would come under another part of the clause and it is absurd to suggest. . . . .

**Mr. G. S. Dutt**: On a point of personal explanation, Sir. I said that it would presumably come either under "deal with" if not under "customary service".

**Mr. B. Sitaramaraju**: I am very glad to hear the Honourable gentleman's explanation, and I shall be more glad still if he would confine himself to the first alternative and realise that it is not a customary service. Sir, what exactly is customary service? It must be first a service, and then that service must be based on a custom. When my Honourable friend, Mr. Mitra, tried to draw the attention of the Government to the fact that he himself was not able to discover what customary service was at the back of the mind of the Government when they talked of customary service, he gave us, by way of illustration, a customary service that is rendered to landlords. A barber or a washerman is bound to render service, and that was and is in several villages, in lieu of the rent he is obliged to pay. That is a customary service which my Honourable friend, the Leader of the European Group, has given the miss when he attacked Mr. Mitra on that point. We want to know whether a similar corresponding duty exists on the part of any section of the public to the Government servant, that simply because he is a Government servant, the public are bound to render a particular service, and that that service is based on custom? I am sorry to say that nobody has explained this matter from the other side of the House. They are feeling shy about it and I think the reason is very simple, because there is no such thing as customary service to a public servant as such. Unless the Government come forward with a clear definition of the term "customary service", it is very difficult for us to accept a provision like this about which we do not know anything. With these words, I support the amendment. •

**The Honourable Mr. H. G. Haig:** Complaint has been made that the term "customary service" is ambiguous. I submit that, as a matter of fact, customary services are well known. In the first place, I would reassure my Honourable friend, Mr. Mitra, that I do not include in them the giving of a *salaam*. I regard a service as something of material benefit and I cannot include in that an empty compliment. This is a problem really of village life. In the villages, as Honourable Members are aware, there are certain village servants who in return for it, may be land or remuneration of some other kind, are bound to perform certain essential services for the people of the village. Now, the particular feature of those services is that they really cannot be performed by anybody else. In the village, unless you get those regular village servants to perform this service, which is an essential service, you cannot get it performed at all. You cannot really live in the village. That is what we have in mind and it is perfectly well known what those services are. Certainly in the province with which I am acquainted, in every village, there is a record of rights in which these things are defined. There is no ambiguity about it.

**Mr. Lalchand Navalrai:** May I interrupt the Honourable Member. Is this clause restricted to such example as the Honourable Member gives?

**The Honourable Mr. H. G. Haig:** The clause refers to customary service and I am explaining what customary service means. It has been urged that even if these services are performed for the inhabitants of a village, it is not reasonable that they should be performed for anybody else. That is not a contention that I can accept. The question of payment is a different matter. It may well be that certain customary services are in fact paid for by touring officers. In the United Provinces, that certainly is the case. When an officer goes on tour, it is a custom that grass for the tents, pottery, and so on, are supplied, but they are paid for. Now, I think my Honourable friend, Sardar Sant Singh, lashed himself unnecessarily into a fury over this matter. After all, if certain village servants habitually perform certain duties, and that is in fact their main occupation in life, how does it become slavery if they perform those same duties for Government officers. I think my Honourable friend must have a very weak case if he depends on such patent exaggeration as to call that slavery. I think, Sir, I have said enough to establish the fact that this matter of customary services is in the villages a matter of great importance, and that we must protect our Government servants against the boycott which denies to them these essentials of life.

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

"That in sub-clause (1) of clause 4 of the Bill, the words 'or to render any customary service to such public servant or any member of his family' be omitted.

The motion was negatived.

**Mr. S. C. Mitra:** Sir, I move:

"That in sub-clause (1) of clause 4 of the Bill, the words 'or any member of his family' be omitted.

Having failed to carry the motion about customary services, I would now like to restrict it to public servants only. In the definition of a public servant in this Bill, the scope has been very much widened. Not only the

public servants themselves, but every member of their family is also entitled to receive these various privileges that one can reasonably expect in hard cases for a public servant to be extended to him. I do not know how it will at all be possible for people to know who are the members of the family of a public servant. One can imagine the hardship to a public servant, supposing that there is so much influence of the Congress in the country that public servants cannot even get a piece of land to pitch their tents. But why should the same privilege be extended to every member of their family? I know that Congress is against social boycott.

**The Honourable Mr. H. G. Haig:** Since when?

**Mr. S. C. Mitra:** Mahatma Gandhi has repeatedly said that it is against the principle of non-violence to bring social pressure to bear upon anybody. So these are really imaginary cases. I find no justification for extending this privilege to every member of the family of a public servant, I think that it is going too far. Therefore, I propose this amendment.

**Diwan Bahadur Harbilas Sarda** (Ajmer-Merwara: General): This clause 4 of the Bill is really wonderful. The more I read this clause, the more I am wonderstruck at the extraordinary sweep of the imagination of the framers of this Bill. I am really thankful that God in His infinite mercy has spared us and arrested the wonderful flight of imagination of the framers of this Bill after it had travelled from public servant to the members of his family and stopped there and not added "and his acquaintances". If that had been done, there is absolutely no doubt that the circle would have been complete and logically it would have become perfect and Government would have been able to pass it in this Assembly constituted as it is.

I doubt if Government fully realise the implications of what they have framed here. They have provided here:

"Whoever.....refuses to deal with, or to let on reasonable rent a house usually let for rent.....to such public servant or any member of his family, on the terms on which such things would be done in the ordinary course.....shall be punished, etc."

Now, what is a public servant? Is a *chaprassi* of a Government office or of a municipal body a public servant or not a public servant? I

4 P.M. hope, the Honourable the Law Member will admit, that reading the *Explanation* to clause 3, where a public servant includes the servant of a local authority or of a railway administration or an employee of a public utility service, that such an employee is a public servant. Now, is there any rule which forbids the recruitment of all sorts of people for the public services? The brother of a public woman is employed as a public servant, I know of such a *chaprassi* in a certain office. Do the Government realise what is meant by adding the words "or the members of his family"? I am perfectly aware that the Government's intention is only to make penal things done to harass a public servant in good faith. But what is the use of using such loose phraseology in an enactment which is liable to be interpreted and used in most objectionable ways? I will not pursue the subject further, but I will only say that the framers of the Bill have not realised fully the meaning and significance of the words that they have used in this clause. Ordinarily, a public servant is a very estimable man, but he may have, as a member of his family, a profligate person. Now, a man who would not agree to let his house to that profligate person—he would be quite willing to

[Diwan Bahadur Harbilas Sarda.]

let that house to the public servant himself, who is an estimable person—comes within the purview of this clause. Now, Government have to some extent made themselves responsible for the public conduct of a public servant. The Government Servants' Conduct Rules lay down certain things. But have Government also made themselves responsible for the conduct of all the members of the family of a public servant in India? Therefore, I say, that the addition of the words "any member of his family" is not only superfluous, but mischievous.

**Mr. K. P. Thampan:** I have also given notice of a similar amendment. Sir, I only want that the Honourable the Home Member should realise that families consisting of between 50 to 200 members are not rare at any rate in my part of the province of Madras and to what extent this privilege is capable of being abused. I can quote several names of families with more than 300 members easily. I will illustrate my point. Well, some of the Malayalis employed in the Secretariat here have got large number of relations residing in their families in Malabar. Now, suppose, one of the members of a clerk's family does not get certain customary services done. Even if these are refused for very good reasons, this particular clerk can complain that it was done with the intention of harassing him in his duties here. The idea is not far fetched. Sir, it can easily be seen that the implications, in view of the fact that a Hindu's family often consists of large numbers of people, are serious, and I would earnestly appeal to the Honourable Member in charge of the Bill to consider all these aspects and accept the amendment.

**Mr. Gaya Prasad Singh:** Sir, I should like to understand the real scope and significance of the whole clause as it is drafted. I understand that the expression "a public servant or any member of his family" is not meant to apply only to customary services, but it governs the whole of this clause.

"Whoever, with intent \* \* \* refuses to deal with, or to let on reasonable rent a house usually let for hire."

Now, the phrase "a house usually let for hire" for instance governs a public servant as well as any member of his family. I should like to understand this point. If this clause is intended to stand like this, I should like to give just one or two illustrations to find out how in actual practice the clause will work. For instance, a public servant is employed in Delhi. It may of course be conceded that he should be accommodated properly in order to be in a position to discharge his duties efficiently. Now, suppose he has got a brother elsewhere, say in Simla, who is not a public servant, and another member of his family residing in some other place. Will this clause operate in favour of those relations of his family who are not living with him, but are residing elsewhere? This public servant, for instance, might complain that he is being harassed in the discharge of his duties, because his brother or some other relation elsewhere does not find suitable accommodation for himself, or finds that customary services are not being rendered to those members of his family who are elsewhere. If my assumption is correct, then the scope of the clause becomes a very dangerous one, and I must warn Honourable Members that they must think twice before they give their sanction to a clause of such

dangerous possibilities. If, on the other hand, it is intended to restrict the scope of this clause only to the cases of members of families of public servants who are residing with the latter in a particular place, that intention ought to be made clear by the addition of suitable words. Sir, with these few words I should like my Honourable friend to explain the exact scope of this clause.

**The Honourable Mr. H. G. Haig:** Sir, before I come to the point raised by the Honourable Member who has just sat down, I should like to deal with the points mentioned by my Honourable friend, Mr. Mitra. He assured us that it was not the policy of the Congress to encourage social boycott, and I ventured to interject the question, "Since when?" The reason why I made that interjection was that I have here a published Resolution of the All-India Congress Working Committee held at Allahabad on the 27th June, 1930, at the height of the first civil disobedience movement. Resolution 4 reads:

"The Committee calls upon the people to organise and enforce a strict social boycott of all Government officials."

Well, Sir, I think that establishes my position. That is the evil against which we are required to guard. Now, Sir, it is well known that in practising this boycott it is common, if possible, to strike a Government servant not directly, but through his family. And I would ask the House to remember that there is this peculiar feature about the life of Government servants that very often, owing to the conditions of their service, they are inevitably separated from their families. The families are left behind perhaps in the village while they are posted elsewhere. In cases like that, it seems to be most essential that the wife and the children should be protected from being given notice to leave the house or from being denied supplies or the customary services that we have heard about if the object of that denial is to influence, as it will influence very powerfully, the Government servant who is serving elsewhere. I think that provides a very full justification for including the members of the family. With regard to the working of the clause, I must at the risk of being tedious, once more emphasise that there can be no offence unless the intention is proved. Now, that, I think, affords a sufficient answer to the suggestion of my Honourable friend, Mr. Thampan. He said that there are very large families in this country which, I understand, extend to about 500 and that it might well be that too great a protection was being extended to these 500 persons on the basis of the one Government servant. I would suggest that when you have a family of 500 persons, the relations of all of them are not very close; consequently it would be exceedingly difficult to prove that because a house is not let to the five-hundredth relation, that refusal is in any way connected with the public duties of the Government servant.

Sir, I oppose the amendment.

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

"That in sub-clause (7) of clause 4 of the Bill, the words 'or any member of his family' be omitted."

The motion was negatived.

**Mr. S. O. Sen:** Sir, I move:

"That in sub-clause (1) of clause 4 of the Bill, after the words 'or any member of his family' the words 'living with him' be inserted."

Notwithstanding the speech made by the Honourable the Home Member, I persist in moving this amendment. The illustration given by the Home Member is that a public servant may have to go from place to place and, therefore, the members of his family should be protected exactly in the same manner as the public servant himself would be. Now, Sir, that explanation does not take into consideration the fact that while a public servant may not have any permanent place of residence, his family would have been living permanently and, consequently, they would not in that place ordinarily require the same services as are to be rendered to the public servant under this clause. Such services would be required by the public servant himself who goes to the outside stations where he has no fixed place of residence. In these circumstances, if the family of a public servant who may live scattered all over the country, and they are entitled to the benefit of the services provided for in this clause, life would become intolerable. Therefore, I move my amendment.

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

"That in sub-clause (1) of clause 4 of the Bill, after the words 'or any member of his family' the words 'living with him' be inserted."

**Mr. Gaya Prasad Singh:** I beg to support this amendment. It was with the precise object of finding out the scope of this sub-clause that I gave an illustration with regard to the former amendment, but from the reply of the Honourable the Home Member it appears that the fear which I then entertained has come true. In other words, all the members of the family of a public servant, wherever they reside, are sought to be protected under the provisions of this sub-clause. I will give you an example. A public servant is stationed in Delhi where he must secure his accommodation and all the amenities of life in order to ensure an effective discharge of his duties. He has got a member of his family, a brother, not an official, working in Simla; another working in Calcutta, and so on. Is it the intention of Government to provide all these facilities for every member of his family in whatever different places they reside? My Honourable friend has reiterated, times without number, that the intention to harass a public servant must be proved. Now, Sir, this expression, in the first place, is very indefinite, and it will be very difficult in political cases for an ordinary Magistrate to acquit an accused person who is charged with the offence under this clause. Sir, so long as the system of judicial and executive functions is combined in the same officer, it is very difficult in political cases for an average officer to weigh with niceties the complexities of the case, or to be altogether free from political bias; and, under these circumstances, it is very doubtful whether proper justice would be done in a case of that nature. Therefore, it is only proper that the words, which my friend who has just moved the amendment to be inserted be inserted in the place where he wants them. It is paying too high a compliment to the Indian National Congress if it is seriously contended that all over the country it will have such a network of organisations that it will be difficult for the members of the families of public officers to live

peacefully, because they will be boycotted effectively and, therefore, these drastic provisions of the law would be necessary. The claim of the Government is that they had almost succeeded in scotching the activities of the National Congress. At one time they claim that their Ordinances, which had been at work, succeeded in achieving their object to a great extent. But when it comes to the provisions of the Bill, some of which are very comprehensive and drastic, which they are going to enact into law, one is bound to come to the conclusion that they are very apprehensive of the immense power of the Indian National Congress. I would, therefore, like to curb the scope of mischief of this clause by limiting it to the case of those members of the family of a public servant who live with him.

**Mr. Amar Nath Dutt:** Sir, after hearing the Honourable the Home Member about the scope of this clause as elicited by the enquiry of my Honourable friend, Mr. Gaya Prasad Singh, I find that instead of enacting all these clauses and instead of our attempting to have certain words changed here and there, it seems to me the intention of the Government is to have very comprehensive power to harass anybody they like. As my Honourable friend, Mr. Thampan, observed, a family may be found in his part of the country consisting of 500 members. But let us confine the meaning of the word "family" to eight or ten persons. Is it not possible for the Honourable the Home Member to have some provision in the clause, as suggested by the Honourable the Mover of the amendment, so that the word "family" may be defined to include persons within certain limits. We know people will have to get judicial interpretation of these words, and who knows what interpretation they will put to the word "family"? In fact, I was thinking why Government should not bring forward a Bill to the effect that whatever a Government servant wants to do he can do, and whatever may be his orders, every one must obey, and no action will lie against him and people disobeying his orders shall be liable to such punishment as the Government servant desires. Have a simple Bill like this and it would be quite sufficient, and it would not have been necessary for us to sit from eleven o'clock till five every day and discussing clause by clause without any chance of carrying any of our amendments and without being able to convince the other side about the necessity of the amendments. Even if the Honourable the Home Member does not accede to the reasonableness of a very moderate amendment moved by a very moderate politician—belonging to the same school of moderate politics as my Honourable friend, the Law Member—if the Honourable Member does not see his way to accept an amendment like this, I think it were better that we were not here. Lest by our going out, it should be said that we are staging a walk-out, I do not suggest that. Probably the Government too do not like that. That being so, I would ask the Government to have a simple Bill as I suggest, namely, that nothing is an offence for a Government servant to do, and everybody should do whatever a Government servant orders and, on failure to do so, the individual defaulting shall be punished with death or transportation for life, or imprisonment, or fine, or both. Such a simple Bill containing a single provision like the one suggested would be sufficient. If the Government want really to listen to our reasonable requests, then they should accept our reasonable amendments, as the one put forward by my Honourable friend, Mr. Sen. That being so, I want the Government to let us know once for all whether they want to hear our views. There may

[Mr. Amar Nath Dutt.]

be difference of views on certain matters, it may be that the non-official Members on this side of the House want certain amendments which the Government consider unreasonable, but to oppose every amendment with the help of that awful book which my Honourable friend, the Law Member, often cites, I am tempted to eat, as I would do, the fish of that name, as suggested by my Honourable friend, Mr. Ranga Iyer, but, surely, in this long list of 195 amendments, there must be some which might be acceptable and if the Government are not willing to accept even moderate and reasonable amendments, let them say: "You had better all leave the House, we will pass the Bill as we like".

**The Honourable Mr. H. C. Haig:** I am afraid that, in spite of the appeal from my Honourable friend, Mr. Amar Nath Dutt, I cannot agree with him that this is a reasonable amendment, nor am I prepared to surrender my judgment even though it is represented that this amendment is put forward by an Honourable Member of exceedingly reasonable and moderate views. I am very well acquainted with the views and with the moderate and reasonable arguments of Mr. Sen. I have had the pleasure of sitting with him in the Select Committee for a fortnight. We discussed these points very thoroughly and I think he would be the first to admit that we did examine all the suggestions put before us very carefully and, that, in very many cases whenever we felt it was possible, we did meet him by accepting those suggestions. But there were other cases in which we could not meet him and I would ask the House to remember when these 195 amendments are being discussed, that these are not amendments on the original Bill, but they are amendments to a Bill which has already been very extensively amended as a result of the most careful examination. So much for the general point.

Now, Sir, I have already dealt, in my reply to the previous amendment with the point at issue in this amendment and have explained, I hope clearly, why it is not possible for Government to agree to the omission of these words. It is, I think, a peculiarly cowardly and mean form of attack on Government servants, this system of boycotting their families, and we could certainly do nothing which would allow that kind of procedure to continue. So far as concerns the point, that you might have some remote relative living in some remote part of the country who wanted to obtain a house or something of that sort, I would suggest that the less near the relative, the less possibility is there of the Court holding that an act done to him has any relation to the public duties of the Government servant. In fact, it appeared to me that my Honourable friend, Mr. Gaya Prasad Singh, practically admitted that there is not much wrong with the drafting of this clause when he had to fall back upon the argument that of course Courts are unreliable. Sir, I oppose the amendment.

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

"That in sub-clause (1) of clause 4 of the Bill, after the words 'or any member of his family' the words 'living with him' be inserted."

The motion was negatived.



**Mr. S. C. Mitra:** Sir, I move:

"That in sub-clause (1) of clause 4 of the Bill, the words 'or withholds from such person or his family such medical services as he would ordinarily render' be omitted."

Sir, I should like to make it perfectly clear that it is not my intention to deprive public servants, nay, anybody of medical aid when they are in need of the same. My purpose in moving this amendment is that it is useless to have a clause like this and I want that there should be no invidious distinction about medical profession alone. I think my Honourable friend, Dr. Dalal, will support me when I say that it is the moral code of the medical profession not to refuse any patient a visit when there is any urgent need for it. It is professional etiquette for any medical man not to refuse a call and I do not think even the Congress ever dreamt of going so far as to suggest that public servants or anybody else should be deprived of medical aid. I remember Sir Muhammad Yakub's heart was bleeding when he thought of the plight of public servants in villages not getting any medical aid. But he should not forget the public at large in India who live in villages. How many hospitals, dispensaries, doctors and midwives are they having? Almost the whole of India, except a few towns and sub-divisions, is bereft of all medical aid. He should not have forgotten this fact, when he was making that pathetic appeal. It seems as if the duty of this Government is only to enact coercive laws and to look after their public servants. The other bigger questions do not matter. That is one reason why I say that this is an unnecessary provision. Why should you make a distinction and cast an indirect slur on the medical profession when there are no instances anywhere in India that medical aid when available was denied to any man, whether a public servant or otherwise.

Sir, I move.

**Mr. Muhammad Yamin Khan** (Agra Division: Muhammadan Rural): Sir, this point was argued in the Select Committee. The original intention was to put "professional services" which would include services rendered by two classes of people, lawyers and medical men. The mention of the legal profession was thought unnecessary as no Government servant would like to have advice from a lawyer who was unwilling to give it. So there remained the question of medical service. The point that Mr. Mitra put was considered when this clause was amended in its present form and it was argued that no medical man would ever refuse his services to any one, whether a public servant or not. But, to our great regret, we found several instances where it did happen and that was responsible for the insertion of this clause. It was brought to our notice that the services of midwives have been in some cases refused to wives of public servants who were in confinement, in places where no other service was available. So the Select Committee, when this was brought to their notice, had no other option but to insert this provision, and I think my Honourable friend will be well-advised if he withdraws this motion.

**Sardar Sant Singh:** Sir, the scene is shifting. From customary service we are now coming to technical service. You can take a horse to the water, but you cannot make him drink; and I ask, in all seriousness, what legal pressure will compel a scientific man to use his scientific knowledge if he is not willing to use it for that purpose? The services

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ordinarily rendered by individuals may be forced by threat or any other means. But if you take an unwilling medical man to look after a patient, will he be cool enough to count his pulse or to see the beatings of the heart or do anything else which would help him to diagnose the disease? Simply because a particular midwife refused to attend a particular case in a particular village, the Government want to enact penal provisions for the whole of India. I am simply surprised at the imagination which is running wild in this Bill and I will certainly say that by these provisions you will not be able to bring round the people. It is by sympathy, co-operation, confidence and trust alone that Governments are run. I submit, therefore, that the provision is mischievous and unnecessary.

**Mr. B. V. Jadhav:** Sir, I rise to support this amendment. My Honourable friend, Mr. Yamin Khan, has opposed this amendment on the ground that in one solitary case a midwife refused to attend the wife of a Government servant. But I have great doubts whether the services of a midwife can be called medical service. In the villages, there are the *dhais* who attend upon women when they are in the family way, but it is well known that they have not got any knowledge of nursing or of midwifery and many a time their attendance is a nuisance and is more harmful than beneficial. Sardar Sant Singh has explained to us that it will be not only useless, but even dangerous if unwilling people are forced to render medical service; and I have also to say the same thing that this provision will be more harmful to public servants whom Government want to protect than helpful or beneficial to them. As a matter of fact, most of these public servants, who want protection or to whom protection is desired to be given by Government, do not require that protection at all. And no medical man of any importance has ever refused medical assistance; and if services had been refused by village *dhais*, then I think instead of the words "medical service", the words "*dhais* service" should have been used here." Why traduce the whole class of medical men who have been all right in the conduct of their profession and who have been very useful to all persons in need of their help whether they be Government servants or not? I, therefore, support this amendment.

**Mr. Amar Nath Dutt:** Sir, the very reasons which my friend, Mr. Yamin Khan, assigns for not compelling professional men like lawyers to accept briefs from men who are to be boycotted, also apply in the case of medical men. He says that nobody would trust a brief to a lawyer who will not wholeheartedly work. The same case may be with a medical man. In a case of fracture, a medical man is called and he gives quinine, to prevent fever or something of that sort. Will you accept such services? I think the retention of these words in the clause will not redound to the credit of the Honourable Member's intelligence, and does not bespeak of their wisdom when they want to force such unwilling medical assistance upon Government servants.

As regards the case of *dhais*, my experience is that these midwives are generally Government servants themselves and it is only outside citizens who do not get the services of these midwives when they want them. \* It often happens in mufassil towns, and any one with experience of mufassil

towns will bear me out that those officers who sit smilingly over there and for whose protection the heart of the Home Member bleeds, have the first claim on their services and that, as a matter of fact, it is the outside people who need protection rather than the class of people for whom this Bill seeks to provide unwilling medical aid. Such attempts will be rather injurious, and it is to their interest that this amendment should be accepted.

My friend, Mr. Moore, is not here—but I think he gave out that he would not have himself shaved by a man whom he suspected to be a Congressman. I do not know whether amongst barbers there are any Congressmen. Of course I have had no connection with the Congress for some time past although I am the oldest Congressman in the House and my family has been identified with the Congress movement almost from its very inception, namely, from the year 1886, from the time of my grandfather, but since 1928, I have not attended any Congress nor have I had anything to do with it and I am not in sympathy with their present day programme; but, at the same time, I think we cannot deny them protection, simply because in the field of politics they think otherwise than we ourselves. That being so, the medical men are also entitled to protection, and, if they refuse to serve anybody, I think we should not come down upon them with any punishment. Much has been said about boycotting, a word, which came into vogue in the early eighties of the past century. Be that as it may, I beg to submit that social boycott and other things, as has been said, are things which ought to be left to individuals alone. It may be that one individual whom you may consider very estimable, I may consider as unworthy of association. My friend, Mr. Sen, would like to sit with me while the Home Member would like to shun my company. Should the Honourable the Home Member be compelled to associate with me? The citizens have a right to choose their associates and you cannot compel people to associate with people with whom they do not like to associate. If you compel Raja Bahadur Krishnamachariar to dine with the Honourable gentleman who sits by his side, viz. Sir Joseph Bhowe or Sir Brojendra Mitter, he will certainly resent it as an interference with his religious tenets. That being so, I submit, that in your own interests you ought not to have these words in the clause.

**The Honourable Mr. H. G. Haig:** Sir, I feel that this is a necessary provision. After all, the object of this clause is to secure, as far as may be, that Government servants are not in pursuance of certain political activities deprived of what we regard as the essential services of life; and, among those, surely we may include medical treatment in sickness. It has been said that it is no use compelling a doctor to go and attend a patient when he is unwilling to do so. But there are two points I wish to make about that. In the first place, we are dealing with a movement which exercises its influence to a large extent by intimidation. It may very often not be the case that the *dhai*, or whoever it may be, is herself unwilling to go, but she is afraid of the Congress. In these cases we provide another form of fear which may prevail over the fear of the Congress. In the second place, I would suggest that when a medical man is in the presence of disease or suffering, the feelings of common humanity will prevail and he will not in fact then withhold his services. Sir, I oppose the motion.

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

"That in sub-clause (I) of clause 4 of the Bill, the words 'or withholds from such person or his family such medical services as he would ordinarily render' be omitted."

The motion was negatived.

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

"That in sub-clause (I) of clause 4 of the Bill, for the word 'three' the word 'six' be substituted."

I need not take the time of the House with a speech. We consider that three months is much too short and it ought to be six.

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

"That in sub-clause (I) of clause 4 of the Bill, for the word 'three' the word 'six' be substituted."

**Mr. S. C. Mitra**: Sir, I oppose this motion. It seems that, now that Government are convinced of their voting strength, they are trying to enhance the period of imprisonment in some of these clauses. The Select Committee, in their wisdom, I think with the votes of people who are persistently against the imposition of heavy sentences, accepted three months, and, therefore, there is no reason why there should be such a heavy sentence as six months as suggested by Government for this almost newly created technical offence. Sir, I oppose this amendment.

**Sir Muhammad Yakub**: Sir, I am sorry I am unable to see eye to eye with the Honourable the Law Member on this question. (Applause from the Nationalist Benches.) In fixing the period of sentence, for an offence, latitude is given to presiding officers to award punishment according to the circumstances of the case. But the clause under discussion is of a quite different nature. In this clause we have to deal with offences committed on a public servant, and, therefore, an element of personal interest comes in this offence, and naturally the presiding officer, being a human being, his sympathies will always go to the complainant in such cases and he will always award the maximum sentence. Therefore, it is not right that the presiding officer should be given the option to give a deterrent sentence in these cases. After all, it is a deterrent measure, and it has been admitted by the Honourable the Home Member himself that it is difficult to draw up a clause which may be very precise and exact in language. I, therefore, submit that it is not right for the Government to insist that such harsh and deterrent sentence should be given in such cases. For these reasons, I oppose the amendment.

**Mr. S. G. Jog** (Berar Representative): Sir, it is really a very rare phenomenon that I am rising to support my friend, Sir Muhammad Yakub. I hope occasions like this will arise more often and it will cease to be a rare phenomenon. Sir, when this clause came before the Select Committee, we, after a long discussion, came to the conclusion that the

period of six months which was in the original Bill should be reduced to three months, and, after a long discussion and looking to the petty nature of the offence and other circumstances, we decided that three months should be quite sufficient to meet all the cases. Probably having seen the weakness of this side, the Honourable the Law Member has made himself bold to come forward with this amendment in order to gain what he lost in the Select Committee. Sir, I strongly oppose this motion not merely on its merits, but I consider it as an insult to the Members of the Select Committee. After a long discussion on the general principle, we agreed to the period of three months imprisonment, and I for one would discourage any attempt that is now made to get over what we succeeded in achieving in the Select Committee. I entirely oppose the motion.

**Mr. Nabakumar Sing Dudhoria** (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I oppose the amendment which has been proposed by the Honourable the Law Member. While I own that the purpose of punishment is correction and should be deterrent in its effect, I would also contend, at the same time, that it should not be vindictive in any way. But to extend the term of imprisonment, from three months to six, would in fact make it so. If three months will not be sufficiently deterrent and corrective, six months would hardly improve the result. A Legislature should not be justified in bringing in any measure which can be construed as vindictive on any interpretation, especially in the matter of a legislation of this character. We should be satisfied with three months imprisonment and refuse to admit six months in its place. With these words, I oppose the amendment.

**Pandit Satyendra Nath Sen** (Presidency Division: Non-Muhammadan Rural): Sir, I am really surprised that the Honourable the Law Member or I might perhaps mention the name of the Honourable the Home Member . . .

**Sir Muhammad Yakub**: The Honourable the Law Member is going to withdraw his amendment.

**Pandit Satyendra Nath Sen**: Is he really going to withdraw it?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): I understand that Government do not wish to press this amendment. (Applause from the Nationalist Benches.)

**The Honourable Mr. H. G. Haig**: Sir, I should like to say one word about the general position of Government in reply to what was said by my friend, Mr. Jog. As far as I understood him, he suggested that while it was open to him and his side to move 195 amendments on the Bill, as reported by the Select Committee, it was a scandalous thing for the Government to move even one. That is a position that I certainly cannot accept. So far as we are concerned, we do consider that six months is a reasonable period of imprisonment for this offence, but we do not wish to press this against the views of other Honourable Members, and, therefore, we are prepared to withdraw this amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): I take it that the Honourable the Law Member wishes to ask the leave of the House to withdraw the amendment.

**The Honourable Sir Brojendra Mitter**: Yes, Sir; I ask the leave of the House to withdraw the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Is it the pleasure of the House to give leave to the Honourable Member to withdraw the amendment?

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

**Mr. S. O. Mitra**: Thanks to Sir Muhammad Yakub.

The Assembly then adjourned till Eleven of the Clock on Monday, the 28th November, 1932.