

Monday, 28th November, 1932

**THE
LEGISLATIVE ASSEMBLY DEBATES**

(OFFICIAL REPORT)

VOLUME VI, 1932

(7th November to 28th November, 1932)

FOURTH SESSION

OF THE

FOURTH LEGISLATIVE ASSEMBLY,

1932



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1933

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Legislative Assembly.

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Deputy President :

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RAI BAHADUR D. DUTT.

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

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

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LEGISLATIVE ASSEMBLY.

Monday, 28th 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.

MEMBER SWORN.

Mr. Bryce Chudleigh Burt, C.I.E., M.B.E., M.L.A. (Government of India: Nominated Official).

QUESTIONS AND ANSWERS.

PAUCITY OF MUSLIMS IN THE SUPERIOR TELEGRAPHS ENGINEERING BRANCH.

1424. *Mr. M. Maswood Ahmad (on behalf of Seth Haji Abdoola Haroon): Has the attention of Government been drawn to Resolution No. 29, regarding the paucity of Muslims in the Superior Telegraphs Engineering Branch, appearing on page 23 of the *Postal Advocate* of April, 1932, passed at the annual conference of the Indian Posts and Telegraphs Muslim Union held on the 25th, 26th and 27th March, 1932, at Delhi, under the presidency of Sir Abdullah Suhrawardy?

The Honourable Sir Frank Noyce: Government have seen the resolution.

ALLOWANCES TO WITNESSES INVITED TO APPEAR BEFORE THE OTTAWA SPECIAL COMMITTEE OF THE LEGISLATIVE ASSEMBLY.

1425. *Mr. Lalchand Navalrai (on behalf of Mr. Bhuput Sing): Will Government be pleased to state:

- (a) whether travelling and daily allowances will be offered to the witnesses who have been specially invited to Delhi from different business centres for being examined by the Ottawa Special Committee of the Assembly; and
- (b) if the answer to part (a) be in the affirmative, the estimated expenditure on this head?

*The Honourable Sir Joseph Bhore: (a) Yes.

(b) The expenditure will depend on the extent to which Government's offer is accepted, but if accepted by all the witnesses concerned, it will amount to approximately Rs. 870.

REFUSAL TO COUNT AS HOURS OF DUTY THE TIME SPENT BY TRAVELLING SORTERS WHILE WORKING IN THE RECORD OFFICE.

1426. ***Mr. K. P. Thampan** (on behalf of Mr. B. R. Puri): (a) Will Government be pleased to state whether it is a fact that the Director General of Posts and Telegraphs has refused to count as hours of duty the time spent by the travelling sorters while working in the record office?

(b) Will Government please state whether the time spent by the travelling sorters in giving and taking charge on the Railway platform is also not counted as hours of duty? If so, what are the reasons for it?

Mr. T. Ryan: The attention of the Honourable Member is invited to the reply given in this House to Mr. N. M. Joshi's starred question No. 970 on the 29th March, 1932.

MARINE ENGINEERING EXAMINATION.

1427. ***Mr. S. C. Mitra** (on behalf of Mr. B. Das): Will Government be pleased to state the number of candidates that sat for Marine Engineering Examination in this country during the last three years and the number of candidates who successfully secured their certificates of competency (a) as Second Engineers, and (b) as Chief Engineers giving separate figures for Indians and non-Indians appearing for the examination and obtaining their certificates of competency?

The Honourable Sir Joseph Bore: A statement giving the required information is laid on the table.

Statement.

	1st Class (Chief) Engineers.		Second Class Engineers.		
	No. of candidates who appeared.	No. of candidates who passed.	No. of candidates who appeared.	No. of candidates who passed.	
1929	Indians	8	1	14	3
	Non-Indians	34	0	112	31
1930	Indians	6	1	21	4
	Non-Indians	39	9	64	17
1931	Indians	5	..	5	2
	Non-Indians	23	9	91	27

DEARTH OF SUITABLE INDIAN MARINE ENGINEERS HOLDING CERTIFICATES OF COMPETENCY.

1428. ***Mr. S. C. Mitra** (on behalf of Mr. B. Das): (a) Are Government aware that there is a dearth of suitable Indian Marine Engineers holding

certificates of competency both as Second Engineers or Chief Engineers in this country? If so, what steps do they propose to take to provide facilities for enabling Indian candidates to become Marine Engineers?

(b) Will Government be pleased to state if it is not a fact that the Indian Mercantile Marine Committee recommended nearly eight years ago that facilities should be provided for Indians becoming Marine Engineers as they considered it necessary for the development of Indian Shipping and that no steps have been taken to provide such facilities up to now in this country?

(c) Will Government be pleased to state how long it will take for them to formulate a scheme for providing facilities for giving training to Indians in Marine Engineering in this country?

(d) Will Government be pleased to state whether they propose to award further scholarships tenable in England for the training of Indians in Marine Engineering for the year 1933?

The Honourable Sir Joseph, Bhoré: (a) The answer to the first part of the question is in the affirmative. As regards the second part, as the Honourable Member is probably aware, the Government of India started a scheme for the training of Indians in Marine Engineering in the United Kingdom in 1929, and have so far granted nine State Scholarships each of the value of £240 a year. In view, however, of the need for economy in Central expenditure, no addition is being made to the number of scholars at present undergoing training.

(b) and (c) Yes; the question of providing the necessary facilities in India is, however, under the consideration of the Government of India, but in view of the additional recurring expenditure involved, a scheme cannot be brought into operation until the financial situation improves.

(d) No.

PAYMENTS FOR PASSAGES TO MEMBERS OF THE VARIOUS SERVICES UNDER THE LEE CONCESSIONS.

1429. ***Mr. S. C. Mitra** (on behalf of Mr. B. Das): Will Government be pleased to state:

(a) the number of passages for which payments were made by them for enabling the members of the various services in going home under the Lee Concessions and other arrangements during the last five years, giving separate figures for each year, both for the number of passages for which payment was made and the total amount of payment made for these passages;

(b) the number of passages for which payments were made by them to enable delegates and advisers to go to the various International and other Conferences to London and elsewhere during the last five years, giving separate figures for each year, both for the number of passages paid for as well as the total amount of the passage money paid for these passages;

(c) the names of the Shipping Companies with which the passages referred to in parts (a) and (b) were booked, giving separate figures of the passages booked for each of the Shipping Companies year by year for the last five years?

The Honourable Sir George Schuster: (a), (b) and (c). Government regret that they are unable to furnish the detailed statistics asked for by the Honourable Member because of the undue amount of labour and expense that their collection would entail. From such information, however, as they have in their possession they can supply the total expenditure on Lee concession passages during the quinquennium ending 31st March, 1931. The total for India, Military and Civil, Central and Provincial, for the five years is Rs. 2½ crores of which Rs. 1½ crores represent passages of Civil and Army officers paid from Military estimates, Rs. ½ crore passages of Railway officers and nearly a crore passages of officers serving under Provincial Governments.

PRIVATE REBATE OBTAINED BY GOVERNMENT ON PASSAGES BOOKED WITH THE PENINSULAR AND ORIENTAL COMPANY.

1430. ***Mr. S. O. Mitra** (on behalf of Mr. B. Das): Will Government be pleased to state if any private rebate is obtained by them on the passages booked by them with the P. & O. Company?

The Honourable Sir George Schuster: The arrangements between His Majesty's Government and various shipping companies, including the Peninsular and Oriental Steam Navigation Company are confidential and cannot be disclosed.

VIEWS EXPRESSED AT THE RECENT OTTAWA CONFERENCE IN FAVOUR OF RESERVING THE IMPERIAL COASTING TRADE TO BRITISH-OWNED VESSELS.

1431. ***Mr. S. O. Mitra** (on behalf of Mr. B. Das): (a) Are Government aware that strong views were expressed at the recent Ottawa Conference in favour of reserving the Imperial coasting trade to British-owned vessels?

(b) Are Government also aware that no decision was arrived at on the subject, but that the matter was referred to a committee?

(c) If so will Government be pleased to state what attitude did the Indian delegates adopt in connection with the subject?

(d) Have Government received any report from the Indian delegates in this connection and, if so, will they be pleased to lay it on the table?

The Honourable Sir Joseph Bhoré: (a) and (b). So far as Government are aware, the question of reserving the Imperial coasting trade to British-owned vessels was not discussed at the Ottawa Conference.

(c) and (d). Do not arise.

PROSPECTS OF EMPLOYMENT OF THE EX-"DUFFERIN" CADETS.

1432. ***Mr. S. O. Mitra** (on behalf of Mr. B. Das): (a) With reference to the reply given by Sir C. P. Ramaswami Aiyar to Mr. K. C. Neogy, will Government be pleased to state in what respect the prospects of employment of the ex-"Dufferin" cadets are affected by "the present abnormal depression in shipping" as stated therein?

(b) Will Government be pleased to state what tonnage engaged in the coastal trade of India, which would normally absorb the "Dufferin" cadets, has been laid up?

The Honourable Sir Joseph Bhore: (a) Government consider that the uncertainty of the position in regard to the future employment of ex-“Dufferin” cadets arises largely from the fact that shipping companies are at the present time reluctant to commit themselves to a definite undertaking that they will continue to recruit officers at the same rate as in the past.

(b) Government have no information.

Dr. Ziauddin Ahmad: Is it not a fact that like the Prince of Wales Military College, Dehra Dun, the instruction in the Dufferin School does not include any instruction in technical subjects, and that the course of instruction covers only general subjects,

The Honourable Sir Joseph Bhore: If my Honourable friend is seeking for information as regards the curriculum, I should be very glad if he would give me notice and I will get the information.

EXAMINATIONS OF THE DELHI UNIVERSITY.

1433. ***Mr. B. N. Misra:** With reference to the answer to part (b) of unstarred question No. 15, dated the 5th September, 1932, by Mr. Gaya Prasad Singh, will Government please state if the system of compartmental examination for the B. A. and B. Sc. students in the Delhi University has been introduced? If so, what arrangements have been made for the examination of the 40 students who failed in one subject only in April last?

Mr. G. S. Bajpai: The reply to the first part of the question is in the negative. The matter is still under the consideration of the University authorities.

The second part of the question does not arise.

Mr. B. N. Misra: Will Government expedite the matter so that students who failed last year may benefit in the ensuing examination?

Mr. G. S. Bajpai: I understand that the University authorities are alive to the desirability of coming to an early decision.

SCHEME OF PROVIDENT FUND FOR GOVERNMENT EMPLOYEES.

1434. ***Mr. Lalchand Navalrai** (on behalf of Mr. S. G. Jog): With reference to question No. 146, dated the 8th September, 1932, of Mr. Lalchand Navalrai, regarding the scheme of Provident Fund for Government employees, will Government be pleased to state:

(a) whether the Honourable Mr. Khaparde withdrew his Resolution in 1931 on account of the assurance given by Government that they would give effect to the scheme within one year; if so, why was it not given effect to; and

(b) whether it is a fact that Government are still doubtful about giving effect to the proposed scheme even before the end of this year?

The Honourable Sir George Schuster: (a) The Honourable Mr. Khaparde withdrew his Resolution on the assurance that within less than a year the Government of India would come to a decision.

(b) The Government of India have now come to a decision not to go on with the scheme.

Mr. Lalchand Navalrai: Is there any move to reduce or withdraw the provident fund which is being at present given to the families of the Imperial Services?

The Honourable Sir George Schuster: I am not aware of any discussion on the subject to which the Honourable Member refers.

Mr. Lalchand Navalrai: If the Government have decided not to introduce this provident fund, will they be pleased to create some other way of helping the families of deceased Government servants, who would otherwise be destitute?

The Honourable Sir George Schuster: I think the Honourable Member is fully aware of the facts. Government were unable to go on with any more generous scheme, because they were not in a position to afford the benefits. That is the present position.

Mr. Lalchand Navalrai: May I understand that it is only on account of want of funds that this provident fund scheme is not being introduced?

The Honourable Sir George Schuster: That certainly is the principal reason.

PROVIDENT FUND SCHEME FOR CURRENCY EMPLOYEES.

1435. ***Mr. Lalchand Navalrai** (on behalf of Mr. S. G. Jog): (a) Will Government be pleased to state whether the following statements were made in the Assembly regarding the Provident Fund Scheme of Currency employees:

1. In 1924, "the scheme is beneficial and requires no consideration",
2. In 1925, "the whole question will be considered",
3. In 1926, "the question is under consideration",
4. In 1927, "the question is still under consideration",
5. In 1928, "the question has been postponed on account of the creation of Reserve Bank", and
6. In 1929, "the question is still under consideration and will try to expedite the matter"?

(b) If so, whether the question has now been fully considered and given effect to?

The Honourable Sir George Schuster: (a) Replies in the sense indicated by the Honourable Member have been given to questions asked in this House.

(b) The question has been under consideration but no new scheme has been introduced.

PROVIDENT FUND SCHEME FOR CURRENCY EMPLOYEES.

1436. *Mr. Lalchand Navalrai (on behalf of Mr. S. G. Jog): (a) Will Government be pleased to state whether the Currency employees were again offered in September, 1932, the same scheme which was rejected by the employees in 1929? If so, have they now accepted it?

(b) If the answer to the second part of the above be in the negative, will Government be pleased to state the main reasons for not accepting it?

(c) Do Government intend to increase the percentage of Government contribution to some extent?

The Honourable Sir George Schuster: (a) and (c). Since the Currency Associations in 1929 refused to accept the terms offered, the Contributory Provident Fund Rules (India), which are applicable to the generality of permanent non-pensionable Government servants in civil Departments, have been framed. The rate of contribution payable by Government under these rules is the same as that offered to Currency employees in 1929. Arrangements were made recently to obtain the views of the non-pensionable staff in the Currency offices but these have not yet reached Government.

(b) Does not arise.

DIFFERENT RULES FOR ALLOTMENT OF GOVERNMENT QUARTERS TO
- CLERKS AT SIMLA AND NEW DELHI.

1437. *Mr. Lalchand Navalrai (on behalf of Mr. S. G. Jog): (a) Is it a fact that there are two different rules for allotment of Government quarters to clerks at Simla and New Delhi, *vis.*, by juniority in pay in Simla and seniority in pay in New Delhi? If so, why?

(b) Do Government propose to alter the rules for such allotment in New Delhi, so as to bring them on the same lines as the rules in force in Simla?

(c) Are Government aware that under the rules at present in force in New Delhi the lower paid clerks, on account of the fact that they being juniors in the list, rarely get Government quarters for their accommodation after their seniors are provided for?

(d) Are Government also aware that as a result of the procedure mentioned in part (c) above, these lower paid clerks are forced to hire private houses for their accommodation on prohibitive rentals and are thus driven to a very miserable and wretched financial condition?

(e) Are Government prepared to redress these grievances of the lower paid clerks and afford them better facilities for accommodation than those given to the senior people?

The Honourable Sir Frank Noyce: (a) Yes. The allotment of Government quarters by seniority, as is the case in Delhi, is a reasonable basis of allotment. In Simla, however, the principle of giving preference in allotment to junior clerks has been in force for some years as it was held that they stood in the greatest need of relief in the matter of house accommodation at that station. If there were to be a revision of the rule, the Delhi rule would in all probability be applied to Simla.

(b) No.

(c) No; the Honourable Member is not, I think, aware that the quarters for clerks are divided into 5 classes.

(d) No.

(e) Government do not consider that lower paid clerks have any legitimate cause for grievance.

RESOLUTIONS PASSED BY THE DIFFERENT POSTAL UNIONS IN INDIA.

1438. *Mr. M. Maswood Ahmad: (i) Has the attention of Government been drawn to the following resolutions passed by different Postal Unions in India:

“Resolved :

(a) That this emergent meeting of the Posts and Telegraphs Union Branch places on record the intense feeling of alarm and apprehension caused in the minds of the subordinate staff by the newspaper report that the Government is contemplating to continue the emergent cuts on the salaries of the subordinate staff even after 31st March, 1933, in violation of the assurance given by the Honourable the Finance Member while imposing the cuts, while the cuts on salaries on officers in Imperial Services are to be terminated on the expiry of that date.

(b) That this meeting earnestly implores the Director General and the Honourable Member, Industries and Labour, kindly to intercede on behalf of the poorly paid subordinate staff who have been more hard hit by the cuts on their slender pay and are in greater need of relief than highly paid officers and to strongly press the Honourable the Finance Member to terminate the cuts on their salaries after the 31st March, 1933, in fulfilment of the assurance given by him, if not immediately in consideration of the fact that their hardship has been accentuated by the rapid increase in the cost of living since the cuts were imposed.

(c) That this meeting expresses its considered opinion that the non-termination of the cuts on salaries of the subordinate staff after the 31st March, 1933, and any differential treatment as between the Imperial Service men and the subordinate staff in the matter will lead to deep and widespread discontent and seriously undermine the faith of the staff in the sense of justice and impartiality of the Government.”

(ii) Will Government be pleased to state the correct position and the policy which they propose to follow after 31st March, 1933, in that connection?

The Honourable Sir Frank Noyce: I propose with your permission, Sir, to reply to questions Nos. 1438, 1439 and 1440 together. Government have seen the resolutions. The matters referred to therein are still under examination.

RESOLUTIONS PASSED BY THE DIFFERENT POSTAL UNIONS IN INDIA.

†1439. *Mr. M. Maswood Ahmad: (i) Has the attention of Government been drawn to the following resolutions passed by different Postal Unions in India:

“Resolved :

(a) That in view of the fact that the present scales of pay for the various classes of the subordinate staff were fixed as a result of a laborious and sifting enquiry made by Sir B. N. Mitra, the then Member of Industries and Labour, with the approval of Sir Geoffrey Clarke, the then Director General of Posts and Telegraphs and of Mr. T. Ryan, C.I.E., the then Financial Adviser to the Department; and that they do not conform to the standard of ‘living wage.’;

†For answer to this question, see answer to question No. 1438.

(b) In view of the fact that in the opinion of financial experts and according to the forecast made by well-informed official circles, the present financial stringency of the Department will disappear with the improvement in trade depression and resultant restoration of traffic to its normal condition and, as a result of the adjustment of accounts as recommended by the Postal Accounts Committee before long and also as a result of economies effected by curtailment of unreasonable extravagance in other directions; and

(c) Also in view of the fact that any reduction of wages will, by reducing the purchasing power of the employees, hinder improvement of the trade depression :

This emergent meeting of the Posts and Telegraphs Union Branch enters its emphatic but respectful protest against any scheme of reduced scales of pay for future entrants to the Department and earnestly implores the Director-General and the Honourable Member, Industries and Labour, to oppose any such scheme."

(ii) Will Government be pleased to state the correct position and the policy they propose to follow in connection with the scheme of reduced scales of pay for future entrants mentioned in part (i) above?

RESOLUTIONS PASSED BY THE DIFFERENT POSTAL UNIONS IN INDIA.

†1440. *Mr. M. Maswood Ahmad: (i) Has the attention of Government been drawn to the following resolution passed by different Postal Unions all over India :

"Resolved :

(a) That this emergent meeting of the Posts and Telegraphs Union Branch is seriously alarmed at the newspaper report that present incumbents in service will, on their promotion to higher scales or grades, be put on the reduced scales of pay to be fixed for future entrants and earnestly implores the Director-General to strongly oppose such a measure as it is inconsistent with the assurance he had given that the new rates of pay were intended only for future entrants to the Department and would not affect present incumbents.

(b) That present incumbents on their promotion should be put, as hitherto, on existing scales of the higher grades to which they will be promoted."

(ii) Will Government be pleased to state the correct position and the policy they propose to follow in connection with the measure mentioned in part (i)?

RESOLUTIONS PASSED BY THE DIFFERENT POSTAL UNIONS IN INDIA.

†1441. *Mr. M. Maswood Ahmad: (i) Has the attention of Government been drawn to the following resolution passed by different Postal Unions all over India :

"Resolved :

That this emergent meeting of the Posts and Telegraphs Union Branch, after a careful perusal of the revised rules for appointments, penalties and appeals for the subordinate staff in the Post Office and R. M. S. made by the Governor-General in Council, as published in Director-General's General Circular No. 25, dated the 29th August, 1932, expresses the considered opinion :

(a) That the revised rules were apparently made without taking into consideration the peculiar nature of the duties and responsibilities of the subordinate staff in the Post Office and R. M. S. involving, as they do, tremendous monetary responsibilities and demanding at every step the observance of a large body of rules and instructions issued by the Director-General of Posts and Telegraphs the slightest breach of which render them liable to severe penalties including degradation, stoppage of promotion, heavy fines and recoveries, suspension and removal and dismissal from service.

†For answer to this question, see answer to question No. 1438.

- (b) That in consideration of the peculiarly hard and exacting conditions of service which are calculated to render the tenure of service of members of the subordinate staff typically insecure, unlike other departments, the benign Government had provided safeguards in the shape of the old rules which by reasonable restrictions on the powers of Superintendents and First Class Postmasters to impose penalties on the one hand and by giving the utmost facilities of appeal right up to the Honourable the Secretary of State on the other provided salutary checks against miscarriage of justice.
- (c) That the Director-General being the author and consequently the only authoritative exponent of the rules and instructions that govern the subordinate staff in the Post Office and R. M. S., the withdrawal of their right of appeal to him will expose them to heavy penalties including removal and dismissal from service on incorrect interpretation of rules by officers subordinate to the Director-General.
- (d) That the revised rules by vesting Superintendents, and First Class Postmasters with extraordinary powers of imposing penalties and by constituting Heads of Circles as the highest appellate authorities for deciding appeals by selection grade officials against all penalties except removal and dismissal from service and by all classes of Postal and R. M. S. employees below selection grades against all penalties including removal and dismissal of service will deprive the subordinate staff of all safeguards against miscarriage of justice and thereby render their service entirely insecure especially when the conditions of their service will be rendered harder under the effects of Retrenchment.
- (e) That the revised rules by exposing the staff to constant dread of losing their service and being inflicted with heavy penalties with the channels of redress closed to them will cause serious demoralisation and deterioration of efficiency.
- (f) That in view of the above, this meeting enters its emphatic but respectful protest against the revised rules and earnestly implores the Director-General of Posts and Telegraphs and the Honourable Member, Industries and Labour, kindly to explain the grave apprehensions of the staff to the Government and advise them to restore the old rules of appointments, penalties and appeals of the subordinate staff that had worked so satisfactorily since the creation of the Department."

(ii) Will Government be pleased to lay on the table a copy of the Director-General's Circular No. 25, dated the 29th August, 1932?

(iii) Will Government be pleased to state the policy they propose to follow in connection with the matters mentioned in part (i)?

The Honourable Sir Frank Noyce: (i) Yes.

(ii) A copy of the Director General's Circular has been placed in the Library.

(iii) The matter is being further examined in the light of recent representations bearing on it.

DELAY IN THE DISPOSAL OF APPEALS BY THE PUNJAB POSTAL CIRCLE.

1442. *Mr. M. Maswood Ahmad: (a) Is it a fact that cases are kept pending for years and years in the Punjab Postal Circle?

(b) Is it a fact that the Director General, Posts and Telegraphs, issued orders to the Post Master General, Punjab Circle, to decide cases without delay, but that there are still cases of appeals pending for two and three years?

Mr. T. Ryan: (a) No; though a few exceptional cases have occurred, in which the delay is not due to the departmental staff.

(b) The Director General has urged the Heads of all Circles including the Postmaster-General, Punjab, and some other administrative officers, to try to expedite the disposal of personal cases.

Mr. M. Maswood Ahmad: Do Government remember that they have issued on the 13th July, 1932, a Circular letter No. Es.-B. 110-7/32, mentioning that complaints of unreasonable delay in the disposal of personal matters are frequently received by the Director General? For instance, the Director General recently received a letter from the wife of a postal clerk complaining that although her husband had been acquitted by the Criminal Court of the charge against him six months ago, he had neither been reinstated nor had any attention been paid to his petitions. In that connection the Director General has called for a report on the case from the Postmaster General concerned together with the explanation of the officer responsible for delay in dealing with the case.

Mr. T. Ryan: As I have already stated, I have given instructions that the disposal of personal cases should be expedited and I think the instance now quoted is an example of that.

Mr. M. Maswood Ahmad: Are Government aware that that case has not still been decided by the Postmaster General, although the letter was dated the 13th July? The Honourable Member himself admitted that there was a delay in that case. Did they get any explanation from the officer responsible?

Mr. T. Ryan: I am not aware of the precise details of this case, but if it is still undisposed of, I shall take further steps to expedite it.

Mr. M. Maswood Ahmad: What amount have they lost every year on account of the suspension allowance owing to the delay in the decision of appeals?

Mr. T. Ryan: No such calculation has been made. These cases are not delayed through carelessness. It is due to some defect in procedure which we are doing our best to remedy.

Mr. Lalchand Navalrai: I did not follow the Honourable Member's reply to part (b). Are there appeals pending for two or three years?

Mr. T. Ryan: The reply is really contained in my answer to part (a). I stated that a very few exceptional cases have occurred, in which the delay is not due to the departmental staff.

Mr. Lalchand Navalrai: How much time is ordinarily sufficient for disposing of an appeal?

Mr. T. Ryan: It depends entirely on the circumstances of the case. In these particular cases there is great difficulty in obtaining certain necessary information from some persons or bodies unconnected with Government.

Mr. Lalchand Navalrai: These are exceptional cases as the Honourable Member puts it, but ordinarily how much time do they take?

Mr. T. Ryan: It is quite impossible to specify a precise period. Each case is dealt with as rapidly as the circumstances admit.

Mr. Lalchand Navalrai: For appeals under the Limitation Act, one or two months is actually prescribed. Will it not be possible for the Honourable Member to dispose of these appeals within a specified time?

Mr. T. Ryan: It may be possible to prescribe a time limit, but it is not practicable to observe it. We are doing our best to dispose of appeals quickly.

Mr. M. Maswood Ahmad: Will Government be pleased to carry out what they have stated in para. 2 of the letter which I have just mentioned

Mr. T. Ryan: I have already stated that if the case is still undisposed of, it will receive further attention.

Mr. President: Next question, please.

REDUCTION IN RAILWAY FARES TO NEWLY MARRIED COUPLES.

1443. ***Mr. M. Maswood Ahmad:** (a) Are Government aware of Sgr. Mussolini's recent decision to grant an 80 per cent. reduction in railway fares to all newly married couples who wish to spend their honeymoon in Rome?

(b) Do Government propose to inquire into the matter and introduce the idea as an experimental measure for those newly married couples who wish to spend their holidays in Delhi?

Mr. P. B. Rau: (a) I have seen a report in the press regarding the reduction granted by the Italian State Railways in such circumstances. I do not remember what was stated as the amount of reduction granted, but I believe there were conditions attached to it, for example, that the couple claiming the concession should produce proof of marriage.

(b) No, Sir. It is not clear whether this action, if correctly reported, has been taken with the hope of increasing the net railway revenues by a large stimulation of this kind of traffic, or as part of propaganda to encourage marriages and the increase of population. Government do not consider that the first object is at all likely of achievement in India. As regards the second, they are not aware that there is any necessity in India to offer any such inducements.

Kunwar Haje Ismail Ali Khan: Will Government be kind enough to ask Their Excellencies to reserve a portion in the Viceregal Lodge for these newly married couples in order to give them further facilities or will the Honourable Members of the Executive Council be kind enough to receive them as their own guests? (Laughter.)

RESOLUTIONS PASSED BY THE EXECUTIVE COMMITTEE OF THE ALL-INDIA MUSLIM RAILWAY EMPLOYEES' ASSOCIATION.

1444. ***Mr. M. Maswood Ahmad:** Are Government aware of the resolutions passed by the executive committee of the All-India Muslim Railway Employees' Association held at Hotel Cecil on the 6th and 7th October, 1982?

Mr. P. E. Rau: Government have not seen the resolutions referred to.

Mr. M. Maswood Ahmad: Have not Government received any copy of that resolution yet?

Mr. P. E. Rau: Not in the Railway Department, Sir.

RESOLUTIONS PASSED BY THE EXECUTIVE COMMITTEE OF THE ALL-INDIA MUSLIM RAILWAY EMPLOYEES' ASSOCIATION.

1445. **Mr. M. Maswood Ahmad:** (a) What action have Government taken or propose to take in connection with resolution No. 3, passed by the All-India Muslim Railway Employees' Association on the 6th and 7th October, 1932, which runs as follows:

"Resolved that in view of the paucity of Muslims in Railway Offices and their total absence in the Establishment Sections, the Agents, the Divisional Superintendents, the Controller of Railway Accounts and the Director of Railway Audit be requested to increase the number of Muslims on their lines in general and in establishment particular by transferring Muslim clerks from other branches."?

Mr. P. E. Rau: The questions raised are covered by the suggestions in Mr. Hassan's report which are at present under the consideration of the Government of India.

Mr. M. Maswood Ahmad: Are Government aware that on the 22nd February, 1932 (I am reading from Assembly Debates, page 1014) an undertaking was given to the following effect:

"In the Railway Board's letter No. 917-E. G., dated the 6th August, 1931, the Agents of the North Western, East Indian, Great Indian Peninsula and Burma Railways have been instructed to consider the posting of Muslim officers as Staff Establishment or Employment officers when making appointment to such posts with a view to securing the employment of an adequate number of Muslim officers. They have at the same time been asked to submit a report by the end of December next."

Has any report been received, and how many Muslim establishment officers have been employed?

Mr. P. E. Rau: As I have already explained, the general question is at present under consideration in connection with Mr. Hassan's report and when orders are passed on that report, the information will be laid before the Assembly.

Dr. Ziauddin Ahmad: Will the question be decided by the present Railway Board or by the Statutory Board which will come into existence under the new constitution?

Mr. P. E. Rau: If the Honourable Member will let me know when the new Railway Board will come into existence, I shall probably be in a position to give him a reply.

Mr. S. O. Mitra: When posting Muslim officers, will Government consider the claims of Bengal Muslim officers, who at present get a small share though Bengal Muslims form the majority of Muslim population in India?

Mr. P. E. Rau: That is a hypothetical question. Till the question has been decided as to the desirability of taking action on the lines suggested, the question does not arise.

Sir Hari Singh Gour: Will the Honourable Member consider the claims of the Shias as against Sunnis who form the majority of the Muslim population?

Maulvi Sayyid Murtuza Sahib Bahadur: Is it not a fact that there is no such demarcating line between Shias and Sunnis? The questioner has unnecessarily raised this question to offend the religious feeling of the Muslims.

SCHEME OF INTER-BRANCH TRANSFERS PREPARED UNDER THE INSTRUCTIONS OF THE RAILWAY BOARD.

1446. ***Mr. M. Maswood Ahmad:** (a) Will Government be pleased to lay on the table the scheme of inter-branch transfers prepared under the instructions of the Railway Board?

(b) Has the attention of the Agents, North Western Railway and East Indian Railway, been drawn to the scheme mentioned in part (a) asking them to give effect to the same?

Mr. P. E. Rau: I have not been able to understand clearly what is the scheme to which my Honourable friend is referring.

Mr. M. Maswood Ahmad: I was referring to the Resolution. Will the Honourable Member be pleased to see the Resolutions passed on the 6th and 7th October? In that Resolution it will be found that the scheme mentioned is in a very clear form.

Mr. P. E. Rau: I shall look into that question. I was not able to understand what my Honourable friend was referring to.

COMMUNAL COMPOSITION OF CERTAIN CADRES IN THE OFFICES OF THE POSTMASTERS GENERAL, PUNJAB AND NORTH-WEST FRONTIER AND BENGAL AND ASSAM CIRCLES.

1447. ***Mr. M. Maswood Ahmad:** Will Government be pleased to state the communal composition of the following cadres of appointments in the offices of the Postmasters General, Punjab and North-West Frontier Circle, Lahore, and Bengal and Assam Circle, Calcutta: (a) Deputy Postmaster General; (b) Assistant Postmasters General; (c) Office Superintendent; (d) Head Assistant and (e) Head Clerks?

The Honourable Sir Frank Noyce: A statement is laid on the table. I may, however, mention that appointments to the posts referred to in the question are made by promotion or selection and that the rules regarding communal representation do not therefore apply.

Statement showing the communal composition of certain cadres in the offices of the Postmasters General, Bengal and Assam and Punjab and North-West Frontier Circles.

		(a) Deputy P. M. G.	(b) Assistant P. M. G.	(c) Office Superin- tendent.	(d) Head Assistant.	(e) Head clerks.	Remarks.
Bengal and Assam	Hindus . . .	1	3	1	3	10	
	Muslims . . .	..	1	..	..	..
	Others . . .	1	..	..	..	1	
Punjab and North- West Fron- tier.	Hindus . . .	1	1	1	2	12(a)	(a) One of these posts will shortly be held by a Muslim.
	Muslims . . .	1	1	..	..	2	
	Others . . .	..	2	..	..	..

PROMOTIONS IN THE OFFICES OF THE POSTMASTERS GENERAL.

1448. *Mr. M. Maswood Ahmad: (a) Will Government be pleased to state the number of (i) Muslims and (ii) Hindus who will be eligible for promotion to the posts of (1) Office Superintendent (2) Head Assistant and (3) Head Clerks in the Offices of Postmasters General, Punjab and Bengal Circles within the next two years by virtue of their seniority?

(b) Is it a fact that promotions in the offices of the Postmasters General are confined to the officials of those offices?

(c) Are Government aware that if the procedure mentioned in part (b) above continues to be in force, there is little likelihood of Muslims getting into the posts stated in part (a) above?

(d) Are Government prepared to order that senior qualified officials be imported into circle offices to remove communal inequalities?

The Honourable Sir Frank Noyce: (a) Government are unable to furnish the information asked for, as promotions to the posts referred to are made not merely by virtue of seniority but also after consideration of the officials' past records and known capability. I would further point out that questions of promotion are decided as vacancies occur and not two years in advance.

(b) Yes.

(c) Government have no information. The Honourable Member is referred to the reply to part (a).

(d) No.

COMMUNAL COMPOSITION OF THE APPROVED CANDIDATES FOR CLERICAL CADRE IN CERTAIN POST OFFICES AND POSTAL CIRCLES.

1449. *Mr. M. Maswood Ahmad: (a) Will Government be pleased to state the communal composition of the approved candidates for the clerical cadre, upper and lower divisions, on the waiting lists of the following postal circles and offices?

- (i)—(1) Bengal and Assam Circle,
 (2) Bihar and Orissa Circle,
 (3) United Provinces Circle,
 (4) Punjab and North-West Frontier Circle,
 (5) Sind and Baluchistan Circle,
 (6) Bombay Circle,
 (7) Madras Circle,
 (8) Central Circle.
- (ii)—(1) Calcutta, General Post Office,
 (2) Madras, General Post Office,
 (3) Bombay, General Post Office,
 (4) Lahore, General Post Office,
 (5) Nagpur, General Post Office,
 (6) Patna, General Post Office,
 (7) Lucknow, General Post Office,
 (8) Karachi, General Post Office.

(b) Is it a fact that there are only 134 Muslim clerks out of a clerical staff of over 1,700 in the Calcutta General Post Office?

The Honourable Sir Frank Noyce: (a), (i) and (ii). Government are not in possession of the information, and its collection would involve a great expenditure of time and labour. Government have no reason to doubt that their orders for the redress of communal inequalities, to which the attention of the recruiting authorities has frequently been drawn, are being properly observed in the Circles and Offices to which the Honourable Member refers.

(b) There are at present 128 Muslim clerks in the Calcutta General Post Office; the total staff is 1,481 clerks.

Mr. M. Maswood Ahmad: Even after seeing this paucity of Muslims, how can the Government say that they are satisfied with the position, in reply to part (a) of the question?

The Honourable Sir Frank Noyce: I can only again repeat that Government have no reason to doubt that their orders for the redress of communal inequalities are being properly observed. I have gone into the recent figures in regard to the recruitment for the Calcutta General Post Office and I find that the orders are being strictly carried out since 1928.

Mr. K. Ahmed: Have Government made all possible inquiries as to whether the order is being carried out also in the office of the Postmaster General, Bengal, so that the House may then feel fully satisfied that the Government are taking all necessary steps to fulfil their promises made again and again not by the Honourable Member himself but from the time of Lord Reading since declarations were made from the pinnacle of the Belvedere Viceregal Lodge since 1925, that Muslims hereafter will, by no means be satisfied with 33 per cent, and that if suitable candidates were available, the Muslim representation would go up to 45 per cent.?

The Honourable Sir Frank Noyce: I shall be happy to place on the table of the House the figures for recent recruitment to the Calcutta General Post Office. To the best of my recollection, there have been 98 clerks recruited in the last four years, and, of these, 31 have belonged to the minority communities. I will verify those figures and place them on the table.

Mr. K. Ahmed: In view of the fact that the Honourable Member has made a hopeless blunder in thinking that 31 out of 1,481 is a proper proportion and in continuation of the question raised by Mr. S. C. Mitra a few minutes ago that Muhammadans should be given a far higher share, should not Government exercise their proper intelligence and see to it that satisfaction is given to our claims so that the promises of Government are fulfilled?

The Honourable Sir Frank Noyce: The statement I have made shows, I think, that the undertakings of Government have been fulfilled.

MUSLIM CLERKS IN THE CALCUTTA GENERAL POST OFFICE.

1450. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that in a staff of nearly 40 clerks in the Calcutta General Post Office, there is not one Muslim clerk?

(b) Is it a fact that in a staff of nearly 10 appointment clerks in the Calcutta General Post Office there is not one Muslim clerk?

(c) Is it a fact that in a staff of nearly 100 clerks in the correspondence branch of the Calcutta General Post Office there are only four Muslims?

(d) Is it a fact that the Muslim correspondence clerks, in the Calcutta General Post Office, who are graduates, are posted to the records and reference sections and they have not been given any responsible work to do?

The Honourable Sir Frank Noyce: (a) As the Honourable Member does not specify the particular branch of the Calcutta General Post Office to which he refers, I regret that it is not possible to give the information for which he asks.

(b) to (d). Government have no information nor do they propose to call for it as postings to branches are not made with reference to communal considerations.

Mr. M. Maswood Ahmad: This question was for the Calcutta General Post Office taken as a whole as I remember—not branch by branch.

The Honourable Sir Frank Noyce: In the Calcutta General Post Office as a whole there are certainly more than 40 clerks—which is the number given in part (a) of the Honourable Member's question.

Mr. M. Maswood Ahmad: Will the Honourable Member be pleased to lay on the table the correct figure—if it is more than 40—I want to know the correct figure?

The Honourable Sir Frank Noyce: I have given the information for the Calcutta General Post Office as a whole in my reply to part (b) of the Honourable Member's previous question. I have there stated that there are at present 128 Muslim clerks in the Calcutta General Post Office out of a total staff of 1,481.

MUSLIM GRADUATES ENTERTAINED AS CANDIDATE CLERKS IN THE CALCUTTA GENERAL POST OFFICE.

1451. ***Mr. M. Maswood Ahmad:** (a) Will Government be pleased to state the total number of Muslim graduates entertained as candidate clerks in the Calcutta General Post Office during the last five years?

(b) Will Government be pleased to state the number of Muslim graduates who left service or candidature in the Calcutta General Post Office during the last five years?

(c) Is it a fact that Muslim graduates who left the Calcutta General Post Office had been put to work in Branches like Sorting, Delivery, Mail, Registration, etc., unlike Hindu graduates who are generally put to work in Correspondence and other branches?

The Honourable Sir Frank Noyce: (a) Eight.

(b) Three.

(c) Government have no information as to the branches in which the officials in question were put to work nor do they admit that work in the mail, sorting and delivery departments is less difficult than work in the correspondence and other branches, which would seem to be the Honourable Member's implication.

COMMUNAL COMPOSITION OF THE TOWN INSPECTORS IN THE CALCUTTA GENERAL POST OFFICE.

1452. ***Mr. M. Maswood Ahmad:** Will Government be pleased to state the total number of Town Inspectors in the Calcutta General Post Office and the communities to which they belong?

The Honourable Sir Frank Noyce: Government have no information and do not propose to call for it as appointments to posts of Town Inspectors are made by promotion and the orders regarding communal representation do not therefore apply.

Dr. Ziauddin Ahmad: The question only asked how many there are,—and it is quite different from any question of communal inequality. I think the Honourable gentleman ought to be able to give the bare figures asked for. The point as to whether he is willing or not willing to adjust any communal inequality is entirely different?

The Honourable Sir Frank Noyce: I am sorry I do not quite follow the question.

Dr. Ziauddin Ahmad: The question No. 1452 was :

“Will Government be pleased to state the total number of Town Inspectors in the Calcutta General Post Office and the communities to which they belong?”

Here the figures only are required.

The Honourable Sir Frank Noyce: I am quite prepared to obtain the figures.

Mr. K. Ahmed: In view of the fact that there is not a single Muhammadan, while there are so many clerks of other communities, will Government see their way now to find out some suitable Muhammadans?

The Honourable Sir Frank Noyce: As I have frequently explained not only this morning but on various other occasions, Government are taking every step to see that their orders in regard to the recruitment of minority communities are strictly followed out. I can give no further undertaking.

Mr. M. Maswood Ahmad: Are Government aware that no question was asked about the “policy of Government”, but that only some figures were required in the question?

The Honourable Sir Frank Noyce: I have promised to give those figures.

RESERVE CLERKS IN THE CALCUTTA GENERAL POST OFFICE.

1453. **Mr. M. Maswood Ahmad:** Will Government be pleased to state the action taken by the Postmaster General, Bengal Circle, on a copy of Mr. Muhammad Azhar Ali's starred question No. 915, dated the 24th September, 1931, regarding reserve clerks in the Calcutta General Post Office?

Mr. T. Ryan: Government have received no report from the Postmaster General, nor do they propose to call for one as the matter is entirely within the discretion of that officer.

AMOUNT RAISED BY LOANS AND SALE OF TREASURY BILLS.

1454. **Dr. Ziauddin Ahmad:** (a) What is the amount of loan Government raised since 1st January, 1932, and at what rate of interest?

(b) What is the total amount Government received by the sale of treasury bills?

(c) In what manner have Government spent or do they propose to spend the amount raised by loan and sale of treasury bills?

The Honourable Sir George Schuster: (a) and (b). Information up to to the end of August, 1932, was furnished to the Honourable Member in reply to his starred question No. 116 on the 8th September last. No loans have been raised by the Government of India since that date. The net sales of Treasury Bills from 1st September to 20th November, 1932, amounted to about Rs. 13½ crores.

(c) The attention of the Honourable Member is invited to the reply to part (d) of his question referred to above.

PUBLICATION OF THE COMPLETE REPORT OF THE POST OFFICE RETRENCHMENT
SUB-COMMITTEE.

1455. *Dr. Ziauddin Ahmad: Is it a fact that the Post Office Retrenchment Sub-Committee published only an *interim* report, and will Government please state when the complete report will be published?

The Honourable Sir Frank Noyce: Yes, but as the *interim* report contained specific recommendations for immediate savings and also suggestions for the investigation of a number of other economies, which are being actively pursued, it has served the purposes of a complete report. Government have therefore decided, with the full concurrence of the Chairman of the Sub-Committee, that the expenditure involved in re-assembling the Sub-Committee would not be justified.

Dr. Ziauddin Ahmad: Do I understand that the final report will not be published at all?

The Honourable Sir Frank Noyce: As I have explained, Government do not propose to re-assemble the Sub-Committee and therefore it will not submit a final report.

Dr. Ziauddin Ahmad: Did the members of that Sub-Committee agree that there should be no final report?

The Honourable Sir Frank Noyce: They were informed of the view of the Government and of the Chairman of the Sub-Committee and none of them has raised any objection.

REPORT OF OFFICER ON SPECIAL DUTY TO REVISE THE SCALES OF PAY.

1456. *Dr. Ziauddin Ahmad: (a) When will the report of the officer put on special duty to prepare statistics about revision of the scale of pay be published?

(b) Will this report be laid before the Retrenchment Committee, which initiated preliminary enquiries?

The Honourable Sir George Schuster: (a) and (b). I propose to call a meeting of the main Retrenchment Committee at the earliest convenient moment, and to discuss the whole position with that Committee.

BAD CONDITION OF A ROAD NEAR TURKMAN GATE, DELHI.

1457. *Mr. Muhammad Yamin Khan: (a) Are Government aware that a portion of the road about a furlong long, from Turkman Gate to its junction with the road which runs from outside Delhi Gate to Ajmeri Gate is *kuchcha* and in very bad condition?

(b) Are Government aware that it is very difficult to take a motor car on that dusty road, and that there is no other way except through that road to get inside the Turkman Gate from New Delhi?

(c) Are Government aware that heaps of rubbish and filth is thrown and collected on both sides of this road and no steps have been taken to improve this locality in spite of its proximity to the New Delhi area?

(d) Has the attention of Government been drawn to the fact that this area affects adversely the health of the residents of both New Delhi and Delhi?

(e) Whom does this road belong to?

(f) If it belongs to the Delhi Municipality, has the Chairman of that Municipality ever inspected it personally? If not, why not?

(g) Has the Health Officer concerned ever drawn the attention of Government to improve this locality and put a stop to fly and mosquito breeding?

(h) When do Government propose to make this road *pucca*?

(i) When do Government propose to remove the mounds of earth and filth from the place lying in front of Turkman Gate?

Mr. G. S. Bajpai: Enquiries have been made and the information will be furnished to the House on receipt.

Dr. Ziauddin Ahmad: Will the Honourable Member kindly take a drive himself and find out the condition of the road?

Mr. G. S. Bajpai: When the strenuous character of the business in the Assembly permits of it, I shall be glad to do so.

Mr. Muhammad Yamin Khan: If the Honourable Member were to take a drive for five minutes, he will be convinced that the road is bad.

Mr. G. S. Bajpai: My Honourable friend does not appreciate that, in the first place, the responsibility is that of the Chief Commissioner and not mine.

Mr. Muhammad Yamin Khan: Will the Honourable Member draw the attention of the Chief Commissioner to the condition of the road after having seen it himself?

Mr. G. S. Bajpai: That assumes, Sir, that the Chief Commissioner will not take the requisite action himself.

Sir Muhammad Yakub: Even if he is invited to a dinner on that road?

Mr. G. S. Bajpai: My Honourable friend has not yet extended the courtesy of inviting me to dinner. If he does, I shall be glad to go.

+1458.*

PAY OF ASSISTANT STATION MASTERS ON THE EAST INDIAN RAILWAY.

1459. ***Mr. K. Ahmed** (on behalf of Mr. Muhammad Anwar-ul-Azim):

(a) Is it a fact that the maximum pay of an Assistant Station Master, East Indian Railway, is Rs. 95 per mensem and scaled as 'C' class? If so, what are the rules for his further increases in pay and rank?

(b) Is it a fact that Assistant Station Masters drawing the maximums of scale 'C' since 8 or 10 years have never been appointed to any vacancy fallen in Station Master's grades on a salary higher or equivalent? If not, will Government be pleased to lay on the table a statement showing the name and pay of Assistant Station Masters, promoted to Station Master with station and pay of each Station Master?

+This question was withdrawn by the questioner.

(c) Is it a fact that Assistant Station Masters, Class 'C', often officiate in Class 'F' temporarily, but were never promoted permanently?

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

EMPLOYMENT OF EAST INDIAN RAILWAY EMPLOYEES ON THE OUDH AND ROHILKHAND SECTION AND VICE VERSA.

1460. ***Mr. K. Ahmed:** Is it a fact that the officials and the subordinates recruited by the Oudh and Rohilkhand Railway prior to amalgamation with the East Indian Railway, though senior, were superseded by the East Indian Railway junior hands? If not, will Government be pleased to state the number, designation and length of service of the East Indian Railway hands serving on the Oudh and Rohilkhand section and *vice versa* with a comparative statement of the sanctioned appointments on the Oudh and Rohilkhand section?

Mr. P. B. Rau: With your permission, Sir, I propose to reply to questions Nos. 1460, 1461, 1462, 1463, 1467, 1469, 1470, 1471, 1472, 1473 and 1474 together.

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

FAVOURITISM TO EAST INDIAN RAILWAY EMPLOYEES.

†1461. ***Mr. K. Ahmed:** Has the attention of Government been drawn to an article under the caption "E. I. Ry. Employees favoured" on page 6, published in the issue dated 22nd October, 1982, of the *Railway Times* (an official organ of the National Union of Railwaymen of India and Burma)? If so, are Government prepared to inquire and hold a competitive examination of both East Indian and Oudh and Rohilkhand Railways hands?

EMPLOYMENT OF EAST INDIAN RAILWAY EMPLOYEES ON THE OUDH AND ROHILKHAND SECTION AND VICE VERSA.

†1462. ***Mr. K. Ahmed:** Will Government be pleased to lay on the table a statement regarding the proceedings and the result of the investigations as promised by the Agent, East Indian Railway, in his letter No. A. E.-1478/4 of 15th September, 1982, on the employment of East Indian Railway hands on the Oudh and Rohilkhand section and *vice versa*?

ABSORPTION OF THE SURPLUS EAST INDIAN RAILWAY HANDS IN THE OUDH AND ROHILKHAND SECTION.

†1463. ***Mr. K. Ahmed:** Has the attention of Government been drawn to an article under the caption "Lucknow Notes" published on pages 3 and 4 in the issue dated the 13th August, 1982, of the *Railway Times*? If so, what steps have so far been taken to prevent the absorbing of surplus East Indian Railway hands in the Oudh and Rohilkhand section? Are Government aware that this has closed the door against promotions and further advancements of persons serving under conditions of the Oudh and Rohilkhand Railway and placed them junior to imported East Indian Railway hands?

†For answer to this question, see answer to question No. 1460.

RULES FOR RECORDING ADVERSE REMARKS AGAINST A RAILWAY SUBORDINATE.

1464. *Mr. K. Ahmed: (a) Has the attention of Government been drawn to the letter published on page 9 in the issue dated the 26th March, 1932, of the *Railway Times* under the caption 'The New Rib'? If so, will Government be pleased to lay on the table a copy of the rule, instructions and the procedure in respect of recording, making or passing adverse remarks against a subordinate?

(b) Is it a fact that the Divisional Superintendents (especially Mr. L. E. Vining) of the East Indian Railway are in the habit of passing adverse and damaging remarks against subordinates without intimating the reasons thereof to the subordinate concerned or calling for defence or explanation before such action is taken?

Mr. P. B. Rau: (a) Government have seen the Article referred to. I would refer the Honourable Member to the reply given to parts (a) and (b) of unstarred question No. 189, asked by Mr. Gaya Prasad Singh on the 14th November, 1932.

(b) Government have no information but the Honourable Member's question will be brought to the notice of the Agent, East Indian Railway.

APPEALS AGAINST THE ORDERS OF THE DIVISIONAL SUPERINTENDENTS ON THE EAST INDIAN RAILWAY.

1465. *Mr. K. Ahmed: (a) Are Government aware that appeals and representations, if and when submitted to the Agent or the Chief Operating Superintendent by subordinates on the East Indian Railway against the orders of the Divisional Superintendents, are never given consideration against the damaging remarks passed by the Divisional Superintendent when forwarding such appeal or representation and that the subordinate concerned is never questioned to rebut such remarks nor is he made aware of these and even the Agent or the Chief Operating Superintendent does not challenge the remarks or call for proofs in support of these from the Divisional Superintendent, with the result that the subordinate continues to labour against extreme grievances?

(b) Are Government aware that, however serious the grievance a subordinate may be labouring under and wishing to see the Agent or Chief Operating Superintendent thereon, he is not permitted to do so by the Secretaries and Deputies under the Agent or Chief Operating Superintendent?

(c) Will Government be pleased to lay on the table a statement for the last five years of the appeals and representations preferred by the subordinates to the Agent or the Chief Operating Superintendent, East Indian Railway, showing:

- (i) the number and nature of appeals or representations originally submitted;
- (ii) the number received in Agent's or Chief Operating Superintendent's office;
- (iii) the number withheld by the Divisional Superintendent of each Division;
- (iv) the number of those appeals which were successful and those which are under consideration; and
- (v) the cost of each of them?

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

(c) Government regret that they can not undertake to collect the information required as it would entail too heavy an expenditure of time and labour.

STAFF DEMOTED ON THE OUDH AND ROHILKHAND SECTION OF THE EAST INDIAN RAILWAY.

1466. ***Mr. K. Ahmed:** (a) Are Government aware that the staff demoted on the Oudh and Rohilkhand section of the East Indian Railway have, despite representations, been superseded by juniors to those demoted before the former's demotion and Railway Board's instructions No. 683-E. G., and No. 381-L. of 3rd March, 1931, and 19th August, 1932, are disregarded by the East Indian Railway administration? If not, will Government be pleased to lay on the table a statement showing:

- (i) the name, designation, pay and length of service of staff brought under reduction or demoted;
- (ii) the casualties thereafter and how they are filled up;
- (iii) the name and designation of the staff whose posts were abolished but provided for in lower or newly created posts; and
- (iv) the name and designation of the staff who have been promoted from lower or newly created posts after demotion when a suitable opportunity offered?

Mr. P. B. Rau: The Agent, East Indian Railway, states that the instructions referred to by the Honourable Member have been, and are being strictly observed, and that any appeal from employees that the instructions have not been properly applied in their cases receive proper attention.

Government regret they are unable to supply the information asked for by the Honourable Member in the second part of his question as they consider that the time and labour spent in collecting it will be out of all proportion to any use which it could be put to.

SENIORITY LIST OF THE SENIOR STAFF OF THE EAST INDIAN RAILWAY.

†1467. ***Mr. K. Ahmed:** Are Government aware that there is a combined seniority list for the senior staff maintained in the Agent's office, East Indian Railway? Are Government aware that it is not adhered to and that recommendations made by the Divisional Superintendents are adopted to the prejudice and detriment of senior and deserving hands?

TRAVELLING TICKET INSPECTORS AND EXAMINERS ON THE EAST INDIAN RAILWAY.

1468. ***Mr. K. Ahmed:** Will Government be pleased to lay on the table a statement in respect of:

- (i) the number of Travelling Ticket Inspectors on the East Indian Railway under the Audit Department before their transfer to the Operating Department and the yearly earning and
- expenditure per head since inception;

†For answer to this question, see answer to question No. 1466.

- (ii) the number of Crews on the East Indian Railway under and before the Moody-Ward report and the yearly earning and expenditure per head since inception; and
- (iii) the number of Travelling Ticket Examiners (old Travelling Ticket Inspectors and Crews) on the East Indian Railway under the Operating Department and the yearly earning and expenditure per head since amalgamation?

Mr. P. R. Rau: The information is not readily available and would entail an expenditure of time and labour to collect incommensurate with any possible advantage that may arise from it.

Mr. K. Ahmed: In the meantime, the Department of my Honourable friend will try, secretly, departmentally or otherwise, without informing us to take proper steps and remove the anomaly at once so that I may not have to remind the Government again on the subject?

Mr. P. R. Rau: Copies of these questions will be sent to the Agent of the Railway, Sir.

SCALES OF PAY OF LOWER SUBORDINATES ON THE EAST INDIAN RAILWAY.

†1469. ***Mr. K. Ahmed:** Is it a fact that there are two scales in the same grade of lower subordinates on the East Indian Railway? If so, why? Is there any difference in the nature of work for which the East Indian Railway recruits are paid higher than Oudh and Rohilkhand Railway hands? When were the last increments to grades made?

PROMOTION OF OUDH AND ROHILKHAND RAILWAY EMPLOYEES TO THE HIGHER GRADES ON THE EAST INDIAN RAILWAY.

†1470. ***Mr. K. Ahmed:** Is it a fact that Oudh and Rohilkhand Railway hands were never promoted or posted to vacancies in higher grades if and when they occurred in the East Indian Railway section? If so, why?

REVISION OF PAY OF CERTAIN POSTS ON THE EAST INDIAN RAILWAY.

†1471. ***Mr. K. Ahmed:** Is it a fact that the pay of Goods Clerks, Train Clerks, Ticket Collectors, Flag Station Masters and Relieving Clerks were revised, but not of Booking Clerks, Parcel Clerks, Luggage Clerks, Signalers and Station Master's Clerks on the East Indian Railway? If so, why?

HOUSE RENT FOR THE STAFF ON THE HARDWAR-DEHRA DUN SECTION OF THE EAST INDIAN RAILWAY.

†1472. ***Mr. K. Ahmed:** Is it a fact that house rent is sanctioned by the Agent, East Indian Railway, to the staff employed on the Hardwar-Dehra Dun section, but it is paid to the staff up to Harrawala and not to the staff at Dehra Dun? If so, why?

OFFICIATING APPOINTMENTS OF INDIAN STATION MASTERS AND ASSISTANT STATION MASTERS OF THE EAST INDIAN RAILWAY AS GUARDS.

†1473. ***Mr. K. Ahmed:** Is it a fact that Indian Station Masters and Assistant Station Masters of the East Indian Railway officiate as Guards in Howrah, Asansol, Dinapore and Allahabad Divisions, whereas the

Divisions of Lucknow and Moradabad are denied the above privilege? If so, why does such differential method of working prevail in the same administration?

REGULATIONS FOR RECRUITMENT OF STATION MASTERS AND ASSISTANT STATION MASTERS ON THE EAST INDIAN RAILWAY.

†1474. ***Mr. K. Ahmed:** Will Government be pleased to lay on the table a copy of the regulations for recruitment of Station Masters and Assistant Station Masters on the East Indian Railway especially in the Divisions of Moradabad and Lucknow?

NOMINATION OF CANDIDATES FROM ASSAM TO THE INDIAN SANDHURST AT DEHRA DUN.

1475. { ***Mr. T. R. Phookan:**
***Mr. Abdul Matin Chaudhury:** } (a) Is it a fact that since the King's Commission was thrown open to Indians, only one officer has been recruited from the Province of Assam?

(b) If the answer to part (a) be in the affirmative, do Government intend to give special consideration to the claims of candidates from Assam in making nomination for the Indian Sandhurst at Dehra Dun?

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

(b) No, Sir. Selection must be made strictly in accordance with the merits of each candidate.

Mr. S. G. Jog: Is it not a fact that the power of the nomination given to His Excellency the Commander-in-Chief has not been exercised at least in regard to the examinations?

Mr. G. R. F. Tottenham: No, Sir. His Excellency the Commander-in-Chief has exercised his power of nomination, but he has exercised it in a particular way. He has decided usually to give his three nominations to the next three candidates on the list, that is to say, he does not want to go outside the order in which they appear as a result of the examination.

Rao Bahadur B. L. Patil: Will the Honourable Member kindly let the House know whether the claims of each province are taken into consideration in selecting the candidates?

Mr. G. R. F. Tottenham: The claims of provinces are not taken into consideration, but the claims of individuals coming from different parts of India may be taken into consideration.

PERMANENT CLERICAL STAFF ON DEPUTATION TO THE OFFICE OF THE RAILWAY BOARD.

1476. ***Mr. Muhammad Muazzam Sahib Bahadur:** (a) Will Government be pleased to say how many clerks, assistants and stenographers, having a lien or having permanent posts in the railways, are now on deputation in the offices of the Railway Board, the Central Standards Office and Major Wagstaff's office?

†For answer to this question, see answer to question No. 1466.

(b) Will Government be pleased to say how many clerks, assistants and stenographers, etc., have been retrenched so far in the above offices?

(c) Are Government prepared to consider the desirability of reverting those having posts in the various railways to their permanent jobs and filling the vacancies thus created by retrenched hands?

(d) Have Government considered that the course suggested in part (c) above will conduce to economy both in the Railway Board and in the various railways?

(e) Will Government also be pleased to say if any of the staff retrenched in the offices referred to above in part (b) have been provided with permanent posts by the Public Service Commission or otherwise in departments of the Government of India or attached offices including Army Headquarters?

Mr. P. R. Rau: (a) There are only two such, both of whom are in the office of the Supervisor of Railway Labour.

(b) The total number of clerical staff retrenched is six, of whom one belonged to the Central Standards Office and the rest to the office of the Railway Board.

(c) and (d). The two men retained in the office of the Supervisor of Railway Labour were retained because they had been trained specially for their present duties and Government do not consider their reversion will be in the public interest or lead to economy.

(e) The employees retrenched were men who volunteered for retirement and the question of providing them with other posts does not arise.

HUNGER STRIKE OF JAIN MUNI SRI MISRI LALJI.

1477. ***Mr. Goswami M. R. Puri** (on behalf of Rai Bahadur Sukhraj Roy): Will Government be pleased to state:

(a) whether they are aware that Jain Muni Sri Misri Lalji has been on hunger strike for the last eight days and intends to prolong it until the Jodhpur State withdraws the ban on his entry into the State territory;

(b) if so, whether they are aware that the Jains regard their Munis with great reverence and any interference with their movements are viewed by them with great disfavour; and

(c) whether they are aware that the ban has caused serious resentment amongst the Jains of British India?

The Honourable Mr. H. G. Haig: (a) Government are aware that this Jain Muni is on hunger strike, but not for the reason suggested. I understand that the object of the hunger strike is to compose the differences between two religious leaders of the Jain community.

(b) and (c). Do not arise.

CUTS IN THE SALARIES OF THE INDIAN CIVIL SERVANTS.

1478. ***Mr. Goswami M. R. Puri** (on behalf of Rai Bahadur Sukhraj Roy): (a) Will Government be pleased to state whether the 10 per cent. cut in salaries of Indian Civil Servants will be continued or restored after 31st March, 1938?

(b) Has the financial position of the Government of India improved or deteriorated since the cuts in salaries were begun?

(c) Will the cuts in Provincial Services also be restored along with the cuts in All-India Services?

(d) Is it a fact that the Government of India have received a fiat from the Secretary of State for India to restore the cuts in the salaries and to prepare the Budgets for the next year on the basis of payments of full salaries and the Budget is being prepared accordingly?

(e) What are the views of the Provincial Governments on the matter? Have any of them lodged any protest to the Central Government against the restoration of cuts?

The Honourable Sir George Schuster: The reply to part (d) of the question is in the negative. For the rest I am not yet in a position to make any addition to the statement on this subject contained in Sir Alan Parsons' reply to Mr. Lalechand Navalrai's starred question No. 143 on the 8th September, 1982.

DISCONTINUANCE OF RAILWAY MAIL SERVICE SYSTEM ON THE EAST INDIAN RAILWAY LOOP LINE TRAINS.

1479. ***Mr. Goswami M. E. Puri** (on behalf of Rai Bahadur Sukhraj Roy): (a) Will Government be pleased to state whether the Railway Mail Service system on the East Indian Railway Loop Line trains has been discontinued recently and that the mails are being carried by the guards?

(b) If so, on what other lines and on what other Railways has the system been discontinued?

(c) What are the reasons for the discontinuance of the system?

(d) Is it intended to secure some retrenchment in expenditure or has it been done with some other purpose in view?

(e) Have the clerks in charge of the Railway Mail Service been discharged or have they been transferred to other departments?

(f) How many such clerks were employed in this?

Mr. T. Ryan: (a) No.

(b), (c) and (d). Do not arise.

(e) The Mail Guard, who was in charge of one Section, has been transferred elsewhere.

(f) Only one Mail Guard was employed in the Section.

CONTRACTORS FOR THE SALE OF BOOKS, SWEETMEATS, TEA AND FRUITS ON THE STATION PLATFORMS OF THE EAST INDIAN RAILWAY LOOP LINES.

1480. ***Mr. Goswami M. E. Puri** (on behalf of Rai Bahadur Sukhraj Roy): (a) Will Government be pleased to state the names of the firms who have got contracts for the sale of books, sweetmeats, tea and fruits on the station platforms of the East Indian Railway Loop Lines?

(b) On what stations are there book-stalls?

(c) Is there any book-stall on any Railway station between Jamalpur and Sahebganj? If not, why not?

(d) Are Government aware that Bhagalpur is a bigger town than either Jamalpur or Sahebganj?

(e) Is it permissible for any other person to maintain a book-stall at Bhagalpur if Wheeler and Company refuses to open one there?

(f) Is it a fact that Bhagalpur is the second largest town in Bihar?

(g) Are Government aware that the total daily sale of daily newspapers in Bhagalpur exceeds 500 in number?

Mr. P. R. Rau: Government have no information. I have sent a copy of the question to the Agent, East Indian Railway, for consideration of the suggestions implied in the question.

PRESENT SITUATION IN SOUTH AFRICA.

1481. ***Mr. M. Maswood Ahmad** (on behalf of Mr. C. S. Ranga Iyer): Will Government be pleased to make a statement on the present situation in South Africa and to what extent the South African Government have proceeded with the plans agreed to by the Indian Delegation since the last Cape Town Conference?

Mr. G. S. Bajpai: I have nothing to add, Sir, to the information I gave to this House on the 12th September last.

SIR HARCOURT BUTLER HIGH SCHOOL, SIMLA.

1482. ***Mr. Muhammad Muazzam Sahib Bahadur:** (a) Is it a fact that the Sir Harcourt Butler High School, Simla, receives from the Government of India an extra grant in addition to the usual annual grant?

(b) Is it a fact that this extra grant was sanctioned for making the school moving between Delhi and Simla for providing educational facilities to the children of the migratory staff?

(c) Are Government aware that the said school is not in a position to meet the requirements of all the children of the migratory staff of the Government of India? If so, do they propose to make an inquiry into the matter?

(d) Are Government prepared either to make arrangements with the Harcourt Butler High School authorities to provide accommodation for all the children of the migratory staff or to start a new moving school under their own management to ease the situation?

Mr. G. S. Bajpai: (a) and (b). The Government of India make only one annual grant to the Harcourt Butler School, Simla, and that is made to enable it to move between Simla and New Delhi.

(c) and (d). Government have no precise information on the point, nor have they received representations in regard to it from those concerned. If representations are received, they will be carefully considered.

PROTECTION TO THE INDIAN SALT INDUSTRY.

1483. ***Kumar Gupteshwar Prasad Singh** (on behalf of Mr. B. Das): (a) Will Government be pleased to state the purpose of the special enquiry on salt trade now being carried on at Calcutta?

(b) Do Government propose to give permanent protection to the Indian salt industry?

The Honourable Sir George Schuster: (a) The enquiry is being held in accordance with section 4 of the Salt (Additional Import Duty) Act to enable the Government to decide whether circumstances exist that would justify an enhancement of the import duty on foreign salt under that section.

(b) I am not in a position to say.

ACTION TAKEN ON THE DEBATE IN THE LEGISLATIVE ASSEMBLY ON THE BURMA FINANCIAL QUESTION.

1484. ***Kumar Gupteshwar Prasad Singh** (on behalf of Mr. B. Das): (a) Will Government be pleased to state what action they took on the Assembly debates on the Burma financial question?

(b) Was the debate forwarded to the British Government?

(c) Will Government be pleased to state whether the arbitration board to consider the Burma question has been set up? If not, why not?

The Honourable Sir Brojendra Mitter: (a) and (b). In accordance with the undertaking given by my Honourable colleague, the Finance Member, on the 6th April, 1932, in replying to the debates, a copy of the Report by the Standing Finance Committee on the Howard-Nixon Memorandum and of the debates in this House on the 5th and 6th April, 1932, has been forwarded to His Majesty's Secretary of State for India.

(c) The arbitration board has not been set up. As he informed the House already, the decision regarding the time when the arbitration is to take place rests with His Majesty's Government.

Mr. S. G. Jog: In view of the recent election do Government think that there is no necessity for an arbitration board?

The Honourable Sir Brojendra Mitter: As I have already answered in reply to part (c), this is a matter which rests with His Majesty's Government.

EXPERT COMMITTEE RECOMMENDED BY THE RAILWAY RETRENCHMENT SUB-COMMITTEE.

1485. ***Kumar Gupteshwar Prasad Singh** (on behalf of Mr. B. Das): (a) Will Government be pleased to state whether they are going to appoint the expert committee as recommended by the Railway Retrenchment Sub-Committee?

(b) Has the personnel of this expert committee been decided? If so, what are they? When is the Committee likely to meet?

The Honourable Sir Joseph Blore: (a) As it was found impossible to get together a suitable expert Committee this year, the Government of India have decided to modify the plan of procedure originally contemplated. Sir Josiah Stamp, President of the Executive of the London, Midland and Scottish Railway, has offered Government the services of the officer who was mainly responsible under the President for the economy campaign on that Railway. The Government of India have accepted this offer, and the officer, Mr. Pope, is due to arrive in India on December 8th. The best way of utilising Mr. Pope's services is still under consideration.

(b) It is proposed to postpone the full independent enquiry originally proposed till next cold weather when it is hoped that it will be possible to obtain the services of suitable experts. The task for these experts will, the Government of India feel, be very much facilitated by the results of the technical investigation to be conducted under the guidance of Mr. Pope.

PROMOTIONS FROM CLERKS CLASS II TO CLERKS CLASS I IN THE OFFICE OF THE CONTROLLER OF RAILWAY ACCOUNTS.

1486. ***Shaikh Fazal Haq Piracha:** (a) Is it a fact that promotions from clerks class II to clerks class I in the office of the Controller of Railway Accounts are made not on the basis of the departmental examination as laid down in Financial Commissioner's Memorandum No. 5565-F. of July, 1929?

(b) If so, will Government please state why this departure is allowed in the case of the staff of the Controller's Office, when in the offices of the Chief Accounts Officers such promotions are made as a result of Appendix 'C' examination?

(c) Are Government prepared to consider the desirability of introducing some sort of test for such promotions?

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

(b) The rules referred to have not been made applicable to the office of the Controller of Railway Accounts. This office is a comparatively small one and the scales of pay and the nature of the work of the clerical staff are not the same as in the Accounts Offices.

(c) Government do not consider that there is any necessity for introducing an examination in this office. The number is so small that the work of each man comes under direct scrutiny by a gazetted officer in the office, and consequently the selection of men fit for promotion presents no difficulties.

HOURS OF ATTENDANCE IN THE OFFICE OF THE CONTROLLER OF RAILWAY ACCOUNTS.

1487. ***Shaikh Fazal Haq Piracha:** (a) Are Government aware of the Home Department decision that no reduction of establishment can be effected by extending office hours?

(b) If so, will Government please state why the hours of attendance in the office of the Controller of Railway Accounts are fixed from 10 A.M. to 5 P.M.? Is it a fact that most of the other offices located in the Secretariat buildings observe six hours working day?

Mr. P. R. Rau: (a) The question of extending office hours in Secretariat offices generally was considered by the Government of India some time ago and dropped as it was thought that it was unlikely that any reduction of establishment could be effected by adopting such a procedure.

(b) The hours of attendance in the office of the Controller of Railway Accounts are as stated by the Honourable Member, but provide for a recess of half an hour. Secretariat offices generally observe a full 6 hours working

day. I understand the hours of attendance in the office of the Controller of Railway Accounts were altered in May, 1931, following the orders revising the hours of work in railway accounts offices in general. In his report of 1927, Sir Arthur Dickinson had drawn attention to the short hours worked in the accounting and audit departments of Indian Railways.

AMOUNT CHARGED MONTHLY FROM THE CLERKS OF DELHI POST OFFICE OCCUPYING POSTAL QUARTERS.

1488. *Shaikh Fazal Haq Piracha: (a) Is it a fact that Rs. 2-9-0 are charged monthly from the clerks of Delhi Post Office occupying postal quarters and that such charges are no longer recovered from the staff of the office of the Director General, Posts and Telegraphs, occupying departmental quarters to whom refunds have been allowed on account of such deductions in the past?

(b) If so, will Government please state why refunds have not been sanctioned for the amount so far charged in excess from the postal clerks?

Mr. T. Ryan: (a) If I understand that the Honourable Member refers to recoveries of rent for water meters and electric meters; the reply is in the affirmative.

(b) The matter has already been taken up with the Postmaster General, Punjab and North-West Frontier Circle.

Mr. K. Ahmed: Since this matter is under consideration for such a long time, do Government propose to expedite it?

Mr. T. Ryan: Steps have already been taken to expedite the disposal of it.

APPOINTMENT OF THE CHIEF SUPERINTENDENT IN THE FINANCE DEPARTMENT.

1489. *Mr. S. C. Mitra: (a) Is it a fact that Mr. Grice has been appointed Chief Superintendent in the Finance Department?

(b) Is he not the juniormost Superintendent in the Department?

(c) Was it not stated in reply to a question in the Assembly that it had not been decided to appoint him as Chief Superintendent?

(d) What are the special reasons for appointing him Chief Superintendent superseding the claims of his seniors? Were they found all inefficient or incompetent?

(e) Are not Mr. Grice's senior Superintendents all Indians? Is that the reason for their supersession?

The Honourable Sir George Schuster: (a) and (c). Yes.

(b) No.

(d) I would refer the Honourable Member to the reply given to part (c) of question No. 485 asked by him and parts (a) and (b) of question No. 474 asked by Sardar Sant Singh during the last September Session.

(e) The reply to the first part is 'Yes' and to the second 'No'.

SALE OF MINERAL WATERS, AERATED WATERS, ICE, ETC., ON THE EAST INDIAN RAILWAY.

1490. ***Mr. M. Maswood Ahmad** (on behalf of Mr. Gaya Prasad Singh): (a) Is it a fact that Carlsbad Company, Calcutta, have been given a monopoly contract for the sale of mineral waters, aerated waters, ice, etc., on the East Indian Railway? If so, since when, and for how long? Were tenders called? If not, why not? If tenders were called, whose tender was the lowest?

(b) Is it a fact that instructions were issued about March last by the East Indian Railway authorities, requiring all Indian Refreshment Rooms (Hindus and Muhammadans) on the East Indian Railway to purchase mineral and aerated waters, etc., exclusively from the Carlsbad Company, whereas such instructions have not been issued on Kellners' Refreshment Rooms who are allowed to keep their own mineral and aerated waters, etc., for sale? Why is this differentiation and favouritism shown to the Carlsbad Company? Are Government aware that the charges of the Carlsbad Company are generally higher than those of others, many of whom are Indians?

(c) Do Government propose to take necessary steps so that conditions are equalized in this respect between Indian and European Refreshment Rooms, and that no monopoly is given to an English Company?

(d) Are Government aware that an impression prevails that many Railway officials are promoting the Carlsbad Company?

Mr. P. B. Rau: The Agent, East Indian Railway, has been asked to furnish the information asked for. I will lay a reply on the table of the House in due course.

Mr. M. Maswood Ahmad: Will the Honourable Member also inquire whether Government got any amount or do get any amount out of this monopoly being given to Carlsbad Company?

Mr. P. B. Rau: I will send a copy of that question also to the Agent of the East Indian Railway.

Mr. Lalchand Navalrai: May I know if there is a monopoly of a similar nature on the other Railways with regard to the proprietors of refreshment rooms?

Mr. P. B. Rau: If my Honourable friend will give me details of the information in his possession, I shall be glad to consider the matter.

Mr. Lalchand Navalrai: For instance, have the Spencer & Co., who are in charge of refreshment rooms for a long time, got any monopoly?

Mr. P. B. Rau: I do not think that can be considered as a monopoly. So far as I am aware, these contracts are given after public tender.

Mr. Lalchand Navalrai: Who asks for these tenders? Is it the Agent or somebody else?

Mr. P. B. Rau: It must be the Agent of the line.

Mr. M. Maswood Ahmad: Is it published in the papers that tenders are wanted for these contracts?

Mr. P. R. Rau: Presumably so, but if my Honourable friend wants detailed information on this matter, I would advise him to put a question on paper.

SUPPLY OF WINTER UNIFORMS TO THE ANGLO-INDIAN TICKET COLLECTORS ON THE NORTH WESTERN RAILWAY.

1491. ***Mr. Gaya Prasad Singh:** (a) Is it a fact that winter uniforms have been supplied to Anglo-Indian ticket collectors on the North Western Railway, but the Indian ticket collectors of the same grade have not been supplied any uniform this year? If so, why?

(b) Is it a fact that a circular was issued by the Agent, North Western Railway, or other authority that no uniform will be supplied this year to the ticket checking staff? If so, will Government please state why the Indian staff alone have been deprived of their uniform this year?

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

NUMBER OF SUPERINTENDENTS AND ASSISTANT POSTMASTERS GENERAL IN THE CENTRAL CIRCLE.

1492. ***Mr. M. Maswood Ahmad:** Will Government be pleased to state the total number of appointments of Superintendents and Assistant Postmasters-General in the Central Circle and the number of such appointments held substantively by Muslims?

The Honourable Sir Frank Noyce: The total number of such appointments is 13, one of which is held substantively by a Muslim.

MUSLIM AND NON-MUSLIM DEPARTMENTAL OFFICIALS SELECTED FOR THE POSTAL SUPERINTENDENTS' EXAMINATION FROM THE CENTRAL CIRCLE.

1493. ***Mr. M. Maswood Ahmad:** (a) Will Government be pleased to state the total number of Muslim and non-Muslim departmental officials selected for the Postal Superintendents' examination from the Central Circle during the last 12 years?

(b) Is it a fact that only one Muslim departmental official was selected from the Central Circle for the Superintendents' examination during the last 12 years?

(c) Do Government propose that in future chances will be given to Muslims to appear in the Postal Superintendents' examination?

The Honourable Sir Frank Noyce: (a) and (b). It is regretted that the information asked for is not readily available and Government do not consider that the time and labour involved in collecting it would be commensurate with the end in view.

(c) The nomination of Departmental subordinates for admission to the examination for appointment of Superintendents of Post Offices is made by the Heads of Circles, irrespective of communal considerations. Such

candidates only are nominated who after careful enquiry into their work and conduct are found to be of outstanding ability, vigour and enterprise. Muslims who possess these qualities have the same chance of nomination as members of other communities.

Though as I have explained, communal considerations do not prevail, I may mention for the Honourable Member's information that of 16 officials selected from all circles for admission to the last examination five were Muslims, five were Hindus and the rest were members of other communities.

TRANSFER OF POSTAL OFFICIALS AFTER A TENURE OF THREE YEARS.

1494. *Mr. M. Maswood Ahmad: (a) Will Government be pleased to state whether many Hindus like the present Head Clerk of the Establishment Branch, Nagpur Postal Circle Office, have been holding the post for over three years and that their transfer is overdue?

(b) Do the rules require transfer of officials after a tenure of office for three years?

The Honourable Sir Frank Noyce: (a) and (b). Information in respect of part (a) has been called for, on receipt of which a reply to the whole question will be laid on the table.

COMMUNAL COMPOSITION OF RECORD AND SUB-RECORD CLERKS AT PHULERA.

1495. *Mr. M. Maswood Ahmad: (a) Is it a fact that out of the ten record and sub-record clerks, there is only one Muslim record clerk at Phulera?

(b) If so, do Government propose to give the Muslims their due share in these appointments?

The Honourable Sir Frank Noyce: (a) and (b). Government have no information and consider that no useful purpose would be served by calling for it as the orders for the adjustment of communal inequalities apply only to new recruitment in a service and not to postings of officials already in the service.

PREPONDERANCE OF NON-MUSLIMS IN THE MULTAN POSTAL DIVISION.

1496. *Mr. M. Maswood Ahmad: Has the attention of Government been drawn to the letter, dated the 28th October, 1932, sent by Khan Bahadur Makhdum Syed Rajan Bakhsh Shah, to the Honourable Member, Sir Frank Noyce (a copy of which was also sent to the Director General, Posts and Telegraphs, Delhi, and Post Master General, Punjab and North-West Frontier Circle, Lahore, by names) regarding preponderance of non-Muslims in the Multan Postal Division? If so, what action has so far been taken on the letter, or do Government propose to remove either the Hindu Superintendent or his Hindu Head Clerk and Hindu Inspector of Post Offices, Multan?

The Honourable Sir Frank Noyce: Government have seen the letter which referred to the paucity of Muslims in the supervisory staff of the Multan Postal Division. No action was, or is proposed to be, taken upon it as such postings are not made on the basis of communal representation.

TRANSFER OF THE CLERKS OF THE OFFICE OF THE SUPERINTENDENTS OF POST OFFICES.

1497. ***Mr. M. Maswood Ahmad**: Is it a fact that orders have been issued regarding the transfer of the clerks of the offices of the Superintendents of Post Offices who have served for five years or more? Will Government be pleased to intimate if these orders have actually been carried out in the Multan Division? If the reply be in the affirmative, will Government be pleased to state whether a Hindu clerk working for the last seven years is still kept there and a Muslim clerk who worked for a lesser period was transferred from the Divisional Office first?

The Honourable Sir Frank Noyce: The reply to the first part of the question is in the negative. The only clerk in the office of a Superintendent of Post Offices for whose periodical transfer orders exist is the Head Clerk, and in this connection the Honourable Member's attention is invited to the reply given in this House to Mr. P. G. Reddi's starred question No. 769 on September the 26th, 1932. The remaining parts of the question do not arise.

UNSTARRED QUESTIONS AND ANSWERS.

DEPUTATION OF NON-MUSLIM MEMBERS OF THE LEGISLATIVE ASSEMBLY TO THE RAILWAY BOARD TO DISCUSS THE REPRESENTATION OF MUSLIMS IN THE RAILWAY SERVICES.

214. **Mr. M. Maswood Ahmad**: (a) Is it a fact that some non-Muslim Members of the Legislative Assembly led a deputation this year to the Railway Board to discuss Mr. Hasan's Report and the representation of Muslims in the Railway Services?

(b) If so, will Government please place a copy of the proceedings of the deputation on the table of the House?

Mr. P. B. Rau: (a) No.

(b) Does not arise.

POLICY FOR SELECTIVE PROMOTIONS IN THE RAILWAY ACCOUNTS BRANCH.

215. **Mr. Gaya Prasad Singh**: (a) Will Government please state what their policy for selective promotion is in the Railway Accounts Branch?

(b) Do they look for selective ability from workers in the same grade or do they pick and choose a worker from any grade for any work so far as the accounts department is concerned?

(c) In the event of selective promotion being made from the subordinate to the official ranks in an officiating capacity among staff with a permanent status in the Railway Accounts Branch, will Government please state whether the holder of such selective promotion will be entitled to a seniority over other incumbents officiating in the same grade if he drew more pay by the process of selective promotion?

(d) If the answer be in the affirmative and other things being equal among the officiating incumbents, will Government please state whether reversion from that grade or confirmation in that grade will be regulated by seniority? If not, why not?

Mr. P. B. Rau: I would refer the Honourable Member to the Rules for determining the relative seniority of the non-gazetted staff in State Railway Accounts Offices, a copy of which has been placed in the Library of the House.

BRITISH TRADE AGENT, GARTOK.

216. Shaikh Fazal Haq Piracha: (a) Is it a fact that the present British Trade Agent, Gartok, is a sub-assistant surgeon? If so, will Government please state what kind of duty he has to perform in Tibet?

(b) Is it a fact that the British Trade Agent is an executive officer there? If so, will Government please state whether he himself makes enquiries and decides cases of civil and criminal nature and often represents the British subjects' cases in the Courts of the Tibetan officers?

(c) Will Government please state what sort of civil and criminal experience he has got, what Court procedure he knows, and what sort of training he has gained in this line? Will Government please state the reason for the appointment of a sub-assistant surgeon as British Trade Agent?

Mr. H. A. F. Metcalfe: (a) Yes. Apart from his medical duties the functions of the Trade Agent include the exercise of magisterial jurisdiction over British subjects accused of offences and the settlement of disputes between British and Tibetan subjects in personal conference with the Tibetan authorities.

(b) The reply to both parts of this question is in the affirmative.

(c) The present Trade Agent has many years' experience of the work which he is at present called upon to perform. He was appointed to the post because he was considered to be better qualified by experience and character than any other candidate.

GARTOK BRITISH TRADE AGENCY.

217. Shaikh Fazal Haq Piracha: (a) Will Government please state whether the General Purposes Retrenchment Sub-Committee have examined the case of the Gartok British Trade Agency? If so, what steps have they suggested to make savings in the Agency administration?

(b) Is it a fact that there is a proposal under consideration of the Government to put only one officer in sole charge of the Agency? If so, will Government please state what means they have devised to have a keen check on his work at a distance of more than 400 miles away?

Mr. H. A. F. Metcalfe: (a) Yes. The General Purposes Sub-Committee have recommended that the Gartok Trade Agency should be amalgamated with that of Simla Agency and that the two posts of Trade Agent and Accountant should be combined. The proposals are under consideration.

(b) Yes. The proposal is still under consideration.

GARTOK BRITISH TRADE AGENCY.

218. Shaikh Fazal Haq Piracha: (a) Is it a fact that the annual cost of the Gartok British Agency staff was Rs. 5,200 odd from 1925 to 1928 and Rs. 7,400 odd from 1930 to 1932, i.e., a net increase of about Rs. 2,200?

(b) Will Government please state what sort of special work has been done and what kind of special intelligence, ability and efficiency has been shown by the present staff in return for an increase of an exorbitant amount of Rs. 2,200 per annum?

• **Mr. H. A. F. Metcalfe:** (a) No. The expenditure has been materially reduced since 1925.

• (b) Does not arise.

ALLOWANCES DRAWN BY THE SUPERIOR STAFF OF THE GARTOK BRITISH TRADE AGENCY.

219. Shaikh Fazal Haq Piracha: Is it a fact that the present superior staff of the Gartok British Agency is drawing Rs. 12 (Rs. 8+Rs. 4) as daily allowance (travelling allowance)? If so, are Government prepared to reconsider, from the point of view of economy, the Gartok Agency's case and revise the very old scale of pay?

Mr. H. A. F. Metcalfe: No. The present rate of daily allowance for the British Trade Agent and the Accountant is Rs. 6 a day. In addition they draw mileage allowance of $-\frac{3}{4}$ for every mile in excess of 15 miles march. The pay of the British Trade Agent is Rs. 300 during 7 summer months and Rs. 200 during 5 winter months. The Accountant draws a uniform rate of pay of Rs. 100 per mensem. The question of revising the existing rates of pay and allowances is under consideration.

STATEMENTS LAID ON THE TABLE.

The Honourable Mr. H. G. Haig (Home Member): Sir, I lay on the table the information which was promised in reply to starred question No. 1197 asked by Sardar Sant Singh on the 15th November, 1932.

NUMBER OF SIKHS ARRESTED IN THE CENTRAL PROVINCES AND IN THE UNITED PROVINCES OF AGRA AND OUDH FOR WEARING KIRPANS.

*1197. (a) Three Sikhs were arrested in the Central Provinces in 1932 for carrying swords. No Sikhs were arrested in the United Provinces.

(b) Of the three cases referred to, a sentence of nine months' rigorous imprisonment was imposed by the trial court in one case but this was reduced on appeal by the Sessions Judge to the period of imprisonment already undergone. In the two other cases, the accused were acquitted.

(c) The kirpans were full sized swords.

(d) Government are aware of the High Court ruling referred to. Swords are exempted from the operation of the Arms Act in most of the districts in United Provinces. There is no such exemption in the Central Provinces.

Mr. G. S. Bajpai (Secretary, Department of Education, Health and Lands): Sir, I lay on the table the information promised in reply to starred question No. 1268 asked by Seth Haji Abdoola Haroon on the 16th November, 1932, and the information promised in reply to part (c) of starred question No. 488 asked by Mr. Nabakumar Sing Dudhoria on the 20th September, 1932.

COLLECTION OF LOCAL CESS FROM ZAMINDARS IN BRITISH BALUCHISTAN.

*1268. (a) No.

(b) Does not arise.

INDIAN MEDICAL COUNCIL BILL.

*488. (c) According to the latest information available there are 29,066 registered medical practitioners in India of whom 447 are members of the Indian Medical Service.

Mr. P. B. Rau (Financial Commissioner, Railways): Sir, I lay on the table the information promised in reply to starred question No. 632 asked by Mr. A. H. Ghuznavi, on the 22nd September, 1932.

INCOME OF STATE RAILWAYS FROM FARES.

*632. On the East Indian Railway the passenger fares were enhanced from 1st October, 1931, for distances over 100 miles under first and second class, over 50 miles under third class and for all distances under intermediate class. The total earnings under the respective classes for the months of October, 1931, to January, 1932, as compared with the corresponding period of the previous year, were as follows :

	1st October, 1931, to 31st January, 1932.	1st October, 1930, to 31st January, 1931.
	Rs.	Rs.
First Class	4,74,494	5,26,929
Second Class	7,90,164	8,55,328
Inter Class	13,19,172	14,01,595
Third Class	1,38,43,123	1,46,08,220

On the Great Indian Peninsula Railway, the fares were enhanced from the same date for distances up to 150 miles under first, second and third class and up to 300 miles under intermediate class.

The comparative total earnings for the four months in question, were as shown below :—

	1st October, 1931, to 31st January, 1932.	1st October, 1930, to 31st January, 1931.
	Rs.	Rs.
First Class	7,26,068	8,31,357
Second Class	8,42,560	10,03,592
Inter Class	2,23,831	2,61,672
Third Class	91,16,054	89,68,093

On the North Western Railway, the passenger fares were enhanced from 1st October, 1931, for distances up to 150 and over 300 miles under first and second class and for distances over 50 miles in respect of third class. The total earnings for the four months October, 1931, to January, 1932, as compared with the corresponding figures of the previous year were as follows :—

	1st October, 1931, to 31st January, 1932.	1st October, 1930, to 31st January, 1931.
	Rs.	Rs.
First Class	4,76,307	4,61,280
Second Class	7,97,622	8,57,924
Inter Class	9,00,690	11,57,222
Third Class	1,35,08,000	1,50,93,157

THE CRIMINAL LAW AMENDMENT BILL—contd.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadan Rural): Sir, I beg to move:

“That in sub-clause (1) of clause 4 of the Bill, for the word ‘five’ the word ‘two’ be substituted.”

That is to say, I want to have Rs. 200 as the maximum amount of fine instead of Rs. 500. Sir, our thanks are due to the Honourable the Law Member and the Honourable the Home Member for their goodness and wisdom in withdrawing the previous amendment which related to the term of imprisonment. But I think the compliment is premature until I find that they are in a mood to accept the present amendment side by side with the previous one. By their tabling the previous amendment it is clear that they wanted to have a term of six months’ imprisonment and it is also clear that they regarded Rs. 500 as a reasonable amount which could be placed by the side of six months’ imprisonment. Now that they have come down to accept three months as the term of imprisonment, it is up to them to be satisfied with a fine of Rs. 200 or some such other reasonable amount. Otherwise they will lay themselves open to the charge that Government are out to make money by these enactments. The popular notion is that in these days of financial stringency Government rely more on fines than on imprisonments: otherwise they would not have imposed such a heavy fine as Rs. 20,000 or forfeited the deposit of the same big amount for technical offences. These are not my only grounds. There is another ground. The proposed law must be consistent with the law which is already in existence in respect of similar other offences. There is a section in the Indian Penal Code, section 187, which speaks of omission to assist a public servant, when bound by law to give assistance. What is the amount of fine prescribed there? The amount of fine prescribed there is Rs. 200 only. If Rs. 200 is regarded as a reasonable amount for omission to assist a public servant when a person is bound to do so by good law, I think the same amount will be regarded as sufficient for omission to do a thing which a man is bound to do by bad law or at least questionable law. The next section, section 188, speaks of disobedience to order duly promulgated by a public servant. There also the fine is Rs. 200 only. If that amount is regarded as sufficient for disobedience to law, I think the same amount should be regarded as sufficient for disobedience to custom. It is needless to prolong my speech. The points are clear and I hope they will be accepted by the Government.

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

“That in sub-clause (1) of clause 4 of the Bill, for the word ‘five’ the word ‘two’ be substituted.”

The Honourable Mr. H. G. Haig (Home Member): Sir, this amendment carries perhaps with it a lesson to Government. On Thursday evening, in deference to a certain feeling in the House, we decided not to press the amendment which we had tabled for the increase of the period of imprisonment from three to six months. Up to that time it had not occurred to any Honourable Member that the amount of fine of Rs. 500 was excessive; but the moment we agreed not to press our amendment, the Honourable Pandit Satyendra Nath Sen put in an amendment to reduce the amount of fine. As I say, that carries with it perhaps a lesson. The

Government in this matter take their stand on the recommendation of the Select Committee. The Select Committee proposed that the punishment for this offence should be three months' imprisonment or fine of Rs. 500, or both; and we see not the slightest reason for departing from that conclusion. It is impossible to discover any strictly logical relation between the amount of imprisonment and the amount of fine by going through the various punishments sanctioned in the Indian Penal Code. This was the punishment which commended itself to the Select Committee and I see no reason whatever for departing from their conclusion. 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, for the word 'five' the word 'two' be substituted."

The motion was negatived.

The Honourable Sir Brojendra Mitter (Law Member): Sir, I move:

"That at the end of *Explanation* to sub-clause (1) of clause 4 of the Bill, the following be added:

'but includes also a person in the Military, Naval or Air Service of His Majesty'."

Sir, we are dealing with the meaning of the term "public servant". The mischief at which this clause is aimed is directed as much against persons belonging to the Military, Naval and Air Service as to any other servants of Government; it is necessary, therefore, that protection should be extended to these public servants. The amendment means that the scope of the expression "public servant" be extended to persons in the Military, Naval or Air Service of His Majesty. Sir, I move.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, may I ask whether this particular question was discussed in the Select Committee and, if so, what was the decision of the Committee? If the Government was defeated in the Select Committee what fresh condition developed to bring the matter before the Assembly again? In this particular clause we have really yielded to a very large extent, because under this clause all privileges of Government servants are safeguarded and there is absolutely no question about payment at all. If the Government servants refuse to pay for all these gratifications, then I wonder what would happen. Had the privileges been extended to the Members of the Assembly, then the first thing I would have done is that I would have refused payment of the rent to the Secretary of the Assembly. So I think I should like to know how the Government servants would use this clause. May I know exactly the decision of the Select Committee on this particular point?

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I do not exactly remember if Government wanted to have this sub-clause added in the Select Committee, but a similar question arose in another connection. As I come from a province where the military is not recruited and where we are deprived of this privilege of recruiting soldiers for His Majesty's Army as also for the Navy and the Air Force, personally

[Mr. S. C. Mitra.]

we are not very much concerned; but if I remember aright, it was Sir Muhammad Yakub, who is unfortunately absent just now, who raised the question that soldiers, whenever they come out on leave make very many demands on the people. As a matter of fact, he said that they were wont to tyrannise over their co-villagers and, on that account, Sir Muhammad Yakub proposed that soldiers on leave at least should not be considered as public servants; and, to answer my friend, Dr. Ziauddin, who comes from the same province, I must say that from our part we have not much objection to this clause; but if it is a fact in other provinces where soldiers on leave make these unusual demands and tyrannise over others, they can certainly object and we shall vote with them.

Captain Sher Muhammad Khan Gakhar (Nominated Non-Official): Sir, although I had no idea to take part in this debate on the Ordinance Bill, yet I feel that I will not be fulfilling my duty if I do not put before the House the view points of the hundreds of thousands of those brave and honest Indian soldiers who are responsible for the defence and internal security of this country. Sir, at this time when the reforms are being introduced in India, when communal questions are being solved, when every community is fighting for their respective rights and safeguards, I fail to understand why the Indian soldier is meted out a step-motherly treatment.

In the Ordinance Bill now before the House, I am surprised to see that an Indian soldier is not included in the definition of a public servant. If an Indian soldier is not to be considered a public servant, I cannot understand who else should. A servant of a local body or an employee of a public utility service, even a village *chowkidar*, a railway signal man,—all these are accepted as public servants, but a soldier, who is the backbone of, and responsible for the existence of good order and peace of, the country, who fights your battles and who is the real pivot of the Government of the country, is excluded from protection. History shows that in any country where the army is tampered with, the results are disastrous.

Dr. Ziauddin Ahmad: Do you guarantee that they would pay for what they buy from the market?

Captain Sher Muhammad Khan Gakhar: The Honourable House need not be reminded of the consequences of such tampering with soldiers in Russia and Afghanistan lately. The sepoy cannot afford to see the Indian army tampered with. Is there any reason to exclude him from the cadre of public servant? Is he not paid by the country? Is he not governed by the Indian Army Act? If the answers are in the affirmative, as surely they are, then he must be considered a public servant for the purpose of this Bill. Does not this House think of extending the same protection to the wives and children of soldiers which they gladly accede to civil employees? I must point out that during the last non-co-operation movement sepoys and their families were coerced in order to make the sepoys resign from service. Dealers in commodities of daily requirements in many places refused to deal with the soldiers and their families in order to induce the sepoys to leave the army.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): Are there any such instances?

Captain Sher Muhammad Khan Gakhar: Yes, there are many, and I can quote them. Early in 1930, instances were reported of the boycott by Congress agents of Indian troops and their families, with the object of undermining their loyalty. Various means were adopted, namely, (1) general molestation and ill-treatment of soldiers on leave; (2) Pressure on soldiers, through their relatives, to leave the army, and (3) interference with marriage ceremonies. My Honourable friend from Bombay quoted some instances the other day from a civil point of view, but I will cite a few instances from the soldiers' point of view. (1) Banias of Bhim Tal and Kathgodam refused to sell food and cigarettes to sepoy of the 1/3rd Gurkha Rifles. The sepoys were also abused for serving the Government. (2) One Lance Naik of the Rajputana Rifles was beaten by four Congress agents . . .

Mr. B. V. Jadhav: But they were not on leave; they were on duty, is it not?

Captain Sher Muhammad Khan Gakhar: When he refused to leave the army, they threatened to bring a false charge against him. (3) The Golden Temple at Amritsar was picketed by women who prevented Sikh soldiers entering unless they wore *khaddar*. (4) Pressure was brought on relatives of a sepoy of the 4/14th Punjab Regiment to compel him to leave the Army. Congress activities in these directions continued throughout 1931 and, in spite of vigorous counter propaganda and measures instituted by the Army itself, the situation showed very little improvement. The agents selected to carry out this particular Congress propaganda were scrupulously careful in avoiding the commission of offences against the ordinary laws of the country then in force, and, in the absence of any special legislation, the Government were powerless to intervene. Ordinary crimes are dealt with by the ordinary laws of the country, but extraordinary crimes should be dealt with by extraordinary laws. As a Persian Poet says:

"From the joys and sorrows of the world do not be much happy or disheartened. The law of the world is sometimes like this and sometimes like that."

Well, Sir, it is fortunate that the army recruiting organization was not at any time seriously embarrassed. This was, however, merely due to the fact that the supply of potential recruits invariably exceeds the normal demand. Had not, however, the Ordinance been introduced and this part of Congress programme allowed to continue unchecked, there is no doubt that in course of time the supply of suitable recruits for the army would have been seriously jeopardised.

Sir, it grieves me to find that the very man to whom some credit of this great awakening in the country is due, who went to the Great War in lakhs, who died cheerfully fighting your battles with one object in view that India and the fair name of India should live, is evidently receiving an unfair treatment at the hands of this Honourable House who are the representatives of this great country. Let not the army call you ungrateful. Let them not think that the House, in spite of their gallant deeds in the war, is not doing justice to them. In conclusion,

[Capt. Sher Muhammad Khan Gakhar.]

my submission is that a soldier should be treated like other public servants and should be afforded the same, if not more, protection. This object can be gained by including soldiers in the definition of public servants.

Dr. Ziauddin Ahmad: How will you protect the public from the excesses of soldiers?

Captain Sher Muhammad Khan Gakhar: There are no excesses on the part of the soldiers.

With these few remarks, Sir, I support the amendment moved by the Honourable the Law Member. (Applause from Government Benches.)

Mr. Nabakumar Sing Dudhoria (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I beg to oppose the amendment moved by the Honourable the Law Member. I need hardly point out that the Select Committee in which the Government had admittedly the prevailing voice has quite widely and adequately covered the ground in the *Explanation* appended to clause 5. All manner of people, even railway, municipal and local board officials have been included in the term "public servant" for the purposes of this clause. I admit that the inclusion of Military, Naval and Air Force people in the expression "public servant" will not be irrelevant or illegal in any way; they are really public servants, but to include them specifically for purposes of this clause portends potential danger and injustice, because not unoften relations between those people and the ordinary people in society are quite delicate and rest on very thin ground. Any offending case on the part of the ordinary people, though reasonable and justifiable from the civilian's point of view, will be so construed by them for purposes of military exigency and the like as to bring it under "refusal to deal with", whenever they will be pleased to put on such interpretation on such a case. Again, Sir, as such cases will come up for trial before Military officials, also, it is our legitimate apprehension that cases of complaint will be construed quite rigidly and punished even on the flimsiest grounds. I would, therefore, keep aloof the military people from the purview of this clause, as their coming in spells danger and disaster to us, especially when military rule has recently been substituted in many places for the civil rule. On the other hand, the Military, Naval and Air Force people will not suffer anywhere, as, wherever they will have occasion to go, they will obtain the assistance of the civil authorities. In cantonment areas, there is hardly any need yet to extend the operations of this Bill. In case occasion will arise in cantonment areas to cope with the civil disobedience, the existing Cantonment Law is quite adequate to meet such a contingency. With these words, Sir, I oppose the amendment.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, in view of the fact that the Government have learnt the lesson after having withdrawn their amendment yesterday, I am not hopeful that an amendment like this will again be withdrawn. It would not have been necessary for us to spend our breath for opposing this amendment had it not been for the fact that certain things which have been stated by my friend hailing from the North-West Frontier Province require rebutting.

An Honourable Member: He is from the Punjab, and not from the North-West Frontier Province.

Mr. Amar Nath Dutt: I know that he loves me, for I lived in his province in my boyhood. In spite of that I am sorry that I have to differ from him on certain facts which he has been pleased to narrate before this House. He has spoken of the "brave hundred thousand soldiers" serving their country. I yield to none in my appreciation of the services that these soldiers may at one time or another be called upon to render in defending our hearths and homes, but, except for the political atmosphere which is not very peaceful, I think that we may consider that India enjoys peace from foreign aggression or foreign invasion, and that being so, I think that we need not bother ourselves too much about the services of these "brave hundred thousand soldiers" for which we have had no occasion, at least since the days of the Indian Sepoy War, to be grateful.

I shall give my friend another instance. I will request him to acquaint himself with the doings of some of these "brave hundred thousand soldiers" who are now in my own unhappy province, passing through Midnapore, Bankura, Dacca and other districts. Midnapore has been too much in the public gaze for some time past, and it has been found necessary to send soldiers over there to make an impression upon the people. Certainly not to put down any rebellion about which myself or my Honourable friend, the Home Member, may be aware of. We have heard of several acts of oppression practised by these soldiers on the people of the locality. In fact, a gentleman, who is in the confidence of the Government, was travelling with me the other day, and he hailed from Bankura. He narrated to me the details, forgetting that I happened to be a Member of this Assembly. Then he at once checked himself and said: "I hope you will not use these matters". Look at the atmosphere that has been created, the mentality that has been created by these laws in that part of the country. He said: "I hope you are not going to refer to these things. Treat these as confidential". I said I shall not disclose the name of the person, but that at the same time I shall be bound to state if not the whole of it, at least some broad facts before this House. Over a sugarcane plantation these soldiers went. They enjoyed the whole of the sugarcane in the field of a poor agriculturist. I challenge my Honourable friend on the other side to deny this. Let him have a report from his own district officers in the district of Bankura, and he will find that what I say is correct. Before the law is enacted, they seem to know what it is going to be, and, therefore, they have been making free use, as we are bound to deal with them, of these sugarcane fields. I would not mind them making a free use of these things from people who can afford, but in these times of agricultural distress, to relieve which Government are doing next to nothing, I submit it is the bounden duty of all of us to see that the poor agriculturists of the villages do not suffer by the acts of these soldiers.

My Honourable and gallant friend talked about boycott of these soldiers with respect to the marriage of their children. I have carefully gone through the wording of the Bill, as it stands, after it has emerged from the Select Committee, but I do not find that there is anything like that a man should also be obliged to give his son or daughter in marriage to the daughter or son of a soldier. I do not find any such provision, unless

[Mr. Amar Nath Dutt.]

you enlarge the meaning of the word "deal", but if it is done, it will not reflect much credit to the Honourable Official Members for their draftsmanship, for I think the Honourable the Home Member will surely admit that the word "deal" does not go so far as that. As regards boycotting soldiers, although many of us would not like to boycott amiable friends like my gallant friend over there, I can say honestly before this House that I am very nervous of mixing with soldiers.

Captain Sher Muhammad Khan Gakhar: You should not be nervous. They are gentlemen.

Mr. Amar Nath Dutt: They are super gentlemen, they are noblemen, but I do not know whether many of them are what we are, *viz.*,—gentlemen. Be that as it may, I think many of us on this side of the House will not be disposed to mix very freely with soldiers. That being so, boycott exists there, and if you want to make it an offence and penalise it, people will be compelled to associate with them in spite of their inclinations. As I have already said, the Dorsetshire Regiment passed through Bankura destroying sugarcane fields, but if my Honourable friend, the Home Member, wishes to challenge me, let him first get a report from his own district officers there whether that was true or not. The story was told by a responsible person and I do not disbelieve him. Then, my gallant friend has been pleased to propound certain maxims of law which it will be for the Honourable the Law Member to consider, but I hope he will not be guided by the principle enunciated there, namely, the law is sometimes like this, and sometimes like that. He must know that there is always a missing link, or what we call in law, a lacuna, because human society is progressive, and the needs of society develop as time goes on. But here we must remember also that Indian society at the present moment is not a progressive society. We are retracing our steps back. We are going back to the dark days before 1857 and the law will be sometimes like this and sometimes like that. Law will go back to those archaic days, to the days of Draconian legislation such as we have been enacting here. As I have submitted, we should not too much oppose it, because that matter carries with it a lesson as my Honourable friend, the Home Member, has said. Then, again, something has been said about the retention of certain clause which a certain Member wanted to have deleted and the reason given was that it was carefully considered by the Select Committee and, therefore, Government will not accept any change. May I ask, whether or not this portion of his argument was carefully considered by the Select Committee? If he assures us that it was not carefully considered, we shall certainly not oppose it, but if he says that it was carefully considered and still he asks us to accept his amendment, I think he is asking too much. I shall always be very glad to oblige him. I shall always be very glad to follow him and support him in any measure which he thinks necessary in the interests of the country, but at the same time in this matter he must give us an assurance that the Select Committee did not carefully consider this before we can support him.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): I wish to convey to the Honourable the occupants of the Treasury Benches that it is amendments like these which are exasperating the Opposition. They must feel once for all that if they really want to carry the Opposition with them, they must not overstrain the co-operation which

they are prepared to give in a measure of this exceptional character. What would be the effect of an amendment like this if it was enacted into law? It would mean this—a person in the Military, Naval or Air Service of His Majesty, whether he is a commissioned officer or non-commissioned officer or even a cooly, will demand all the rights which you have conferred upon a public servant. It is unfortunate that the terms of definition of public servant have been enlarged by this proviso. It is doubly unfortunate if you were to extend the provisions of this clause to Naval, Military and Air Force servants. Only the other day, one of my colleagues speaking from these benches quoted a paragraph which appeared in the newspapers to the effect that an order had been issued to the citizens of a certain place to appear and receive a contingent of the Military when they arrive at a particular station and to offer them their *salams*. If you wish to humiliate the people of India, this is the way to do so. I venture to think that you could not possibly have that in mind. If you really wish to preserve law and order, this is the way of wrecking law and order. I submit, therefore, that the Honourable the occupants of the Treasury Benches should really pause and consider the effect that it is likely to produce in the country if this amendment is incorporated into this Act and I seriously ask the occupants of the Treasury Benches to carefully ponder over the implications of this amendment and the repercussion it is likely to have throughout the country.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): I am compelled to speak on this amendment. This amendment aims at the protection of military officers. The clause gave protection only to civil officers. I also know that the original Bill did not contain this *Explanation* which is sought to be added to at present. In the Select Committee also, I take it, that the matter was fully considered and it was not thought necessary that such an *Explanation* should be added. Now, the Bill itself, as it has come from the Select Committee, does not contain this *Explanation* and the amendment is proposed only as an after-thought. I do not know for what reason this *Explanation* is sought to be added. In my humble opinion, it appears to me that there is a great difference between the protection given to a civil officer and a military officer. My point of view is this. I feel that civil officers may sometimes require protection, but as to the military, it is on the contrary the public that require protection against the military officers and their highhanded ways. They harass people and take the law into their own hands and show their highhandedness in dealing with shopkeepers. My friend, Captain Sher Muhammad Khan, has been in the military for a long time and has regard for them. I do see eye to eye with him that they are useful to the public, but there is the other side of the question which he should not forget. He must have known in his own experience how roughly these people deal with the public. I will give only one instance. Do not the Honourable Members remember that recently it was in the papers, and I have also inquired and learnt on reliable authority, that a hawker near the Gol Post Office here, who would not sell his things except for cash, was maltreated by some Tommies who wanted certain things from him, and when the things were refused, they robbed the hawker of his things and went away quietly? If this is the kind of thing that can happen, it is the public that require protection against the harassment by the military to the people. I oppose this amendment.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, this House has given protection to soldiers under clause 2 of the present Bill, which says:

"Whoever wilfully dissuades or attempts to dissuade the public or any person from entering the Military, Naval, Air or Police service of His Majesty".

Now, by the very consent of this House, that was done and there must have been adequate grounds for putting in this clause. And this very fact shows that there is some kind of dissuasion or attempt at dissuasion of people from entering the Military service. That very fact further shows that the soldiers are not looked upon with good grace in the eyes of a certain section of the public: and the very fact that here in the House I see bitter speeches being made against soldiers, what then must be the feeling against the soldiers amongst the public outside? Now, if that is the way that the soldier is going to be treated, naturally there must come up somebody who must give him the protection that he requires, and this is the thing that has led my Honourable and gallant friend to champion the cause of the soldier.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): That is not good logic at all.

Mr. Muhammad Yamin Khan: If the House comes to realise what is intended by this amendment, then they will be convinced at once that what is asked for is not too much. (*An Honourable Member*: "Why has the Law Member brought this amendment against the report of the Select Committee?") The real thing is that claim for this must be coming from the Military authorities, otherwise the Honourable the Law Member would never have moved this amendment. It is the pressure from the Military that is responsible for bringing in this amendment, and there must have been good reasons for the protection which they seek. Now the only thing that is wanted is this, that a soldier be included in the definition of "public servants". In the *Explanation*:

"For the purposes of this section, 'public servant' has the same meaning as in section 3."

What is in clause 3? A public servant has been defined there thus:

"A public servant denotes a public servant as defined in section 21 of the Indian Penal Code, a servant of a local authority or railway administration, a village chowkidar, and an employee of a public utility service as defined in section 2 of the Trade Disputes Act, 1929."

Now, may I ask, if you give protection to all these people, is it not justifiable that the soldier must come forward and say: "if I am being harassed, you must extend this protection to me also."? Are they asking for too much? Sir, the speech which my Honourable and gallant friend has made has shown the services which the soldiers have rendered to the country and which they are ready to render to the country every moment. Sir, they are ready to shed their life-blood even, if they have to protect the lives of the citizens.

Mr. O. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): And also other people's blood.

Mr. Muhammad Yamin Khan: Yes by shedding other people's blood also, they are protecting my Honourable friends over there. And whenever anybody comes forward in an aggressive manner to kill my Honourable friend, the soldier will stand up

Mr. C. S. Ranga Iyer: Is not the soldier armed and the village *chowkidar* unarmed, comparatively speaking?

Mr. Muhammad Yamin Khan: When protection is required in this place, both are disarmed. Probably the village *chowkidar* has a much greater amount of force behind him than the ordinary soldier in the village. So I think that the protection which is required is asked in a very simple manner, and a case has been made out for that, and there was no justification for bringing in heat and controversy into this debate. Sir, as regards my Honourable and learned friend, Sir Hari Singh Gour's contention, when the country is not going to be upset by the House giving protection to the village *chowkidar*, the servant of a local authority, the railway employee, how is the country going to be affected adversely if such protection is extended to a soldier? On the contrary, I think the country will be more upset if an invidious distinction is made in the case of the soldier. Sir, if the protection were not really required, if these circumstances did not exist, then I would be the first man to stand up against this very clause. But when such protection is extended to the other public servants, there is no reason why the soldier should be left out. Sir, the soldiers also have got their families as the village *chowkidar* and the other classes of employés have families requiring protection. If you are going to give protection, Sir, to the railway employee, the municipal employee, the servant of a local authority, if they are harassed, then do you mean to say that no protection should be given to the soldier, if he is harassed or if his family is being harassed? Sir, I think this amendment ought to be accepted with good grace. Sir, the soldier is ever ready to serve you and your country and we should show our trust in him by accepting this amendment in the best spirit. With these words, Sir, I support the motion of my Honourable friend, the Law Member.

Mr. C. S. Ranga Iyer: Sir, after the manner in which my friend and Leader, Sir Hari Singh Gour, had summed up the case for the Opposition, I thought I at any rate need not have stood up to speak. But when a civilian and a barrister stands up to advocate the cause of the soldier, who can look after himself even without the battery of legal arguments of my Honourable friend from Meerut, it becomes necessary once again to present our view point. I can perfectly understand, Sir, the Honourable and gallant Member for Rawalpindi standing up for this clause. The Honourable gentleman from Rawalpindi has always stood up for the soldier, being himself an honoured member of the profession which has done such great deeds in this country and elsewhere. But when we stand up in this House and refuse to be caught in the tentacles of that octopus, called the Army Department, as disclosed by my friend, Mr. Yamin Khan, it is because we do not want to extend the existing power of the soldiers.

Sir, the Honourable gentleman said, if a village *chowkidar* can be protected, why not the soldier, the soldier who sheds his blood? I interjected "and also other people's blood" which the village *chowkidar* does not shed. It may be that the soldier sheds other people's blood to save a larger blood-shed, but the soldier is armed. Has the village *chowkidar* the police force at his beck and call? If the Honourable gentleman, not being an American tourist (Laughter) has visited an Indian village, he will understand how much of the police force is available on the spot in a village and how much the police forces in the villages have been able to

[Mr. C. S. Ranga Iyer.]

prevent, leave alone other things, communal riots. Sir, I have experience of wandering through the villages preaching to and teaching the villagers a certain amount of national self-respect. I may have to proceed on such mission even on future occasions, should this anti-civil disobedience Bill try to crush the existing public spirit in the country. Supposing soldiers are let loose on the land, supposing soldiers act in a manner which may be very much worthy of their tradition, may be for the so-called higher purpose of preventing a larger bloodshed, should it not be possible and necessary even to act in self-defence by excluding the soldier from the operation of the provision about public servants?

Sir, the Government originally conceded that the civil disobedience movement which is directed against the civil administration of the country should be met in a more or less civil manner, but this uncivil legislation is framed from the point of view of jurisprudence unknown in any self-respecting country in the world. Sir, having fought themselves out of the Select Committee, though I say the Members ought not to have walked out but stayed and fought, having agreed on many points, here comes a revelation from my Honourable friend from Meerut that pressure has been brought from the Army Department to move this amendment over their heads. If what Mr. Yamin Khan has said is true and I have not heard the Honourable the Home Member contradict that statement

Mr. Muhammad Yamin Khan: I did not say the Army Department: I said from the soldiers.

Mr. C. S. Ranga Iyer: I shall repeat exactly the words which the Honourable gentleman actually said as I have taken notes of them. He said that pressure has been brought from the Military. If the Honourable gentleman's statement is correct, then the Military means the Army Department so far as this House is concerned.

Mr. Muhammad Yamin Khan: I never meant that.

Mr. C. S. Ranga Iyer: The Honourable gentleman says he did not mean that but I put that interpretation on his statement, for surely the only manner in which pressure can be brought upon the Government by the Military is either through the Commander-in-Chief or through the Army Secretary, which means the Army Department. There is no other way in which pressure can be brought by the Military upon the Government.

Mr. Muhammad Yamin Khan: And through soldiers too.

Mr. C. S. Ranga Iyer: How do soldiers bring pressure? Do they not bring pressure in a constitutional manner?

Mr. Muhammad Yamin Khan: Through peaceful persuasion.

Mr. C. S. Ranga Iyer: If soldiers bring pressure upon the Government, it must be through the Army Department. Sir, we cannot be dictated to by the Army Department. The Army Department cannot exploit this piece of legislation for army purposes. The cat has walked out of the bag and I am grateful to Mr. Yamin Khan for driving the cat out of the bag. He wants to call back the pussy and drive it into a corner, but the cat is obstinate. Mr. Kabiruddin Ahmed, without making a speech, summed up the case that Mr. Yamin Khan put by saying that there is no logic in it. There is not even the magic except the magic of pussy walking out of the bag. (Laughter.)

Sir, I may tell the Honourable the Home Member frankly that if he is going to take advantage of the weakness of the Opposition, partly due to the boycott of this House by the Congress and partly due to the deplorable absenteeism—Honourable Members not realising their responsibility to their constituents—and amend an already amended Bill in the Select Committee, I can only say that even though we may be few we will press this matter to a division and will carry on a raging campaign in the country telling our constituents how, against our wish and our votes, this mischievous piece of legislation was carried. Sir, I propose to press this motion to a division. (Applause.)

Hony. Captain Rao Bahadur Ohaudhri Lal Ohand (Nominated Non-Official): Sir, I was under the impression that with the cooling down of temperature and with three days recess, the Opposition would have been found recovered from the temporary fit of anger under which they had been delivering their speeches in the early part of this debate. But my expectations have been falsified by the speeches delivered by the Honourable Mr. Dutt and other Honourable Members who followed him. Sir, I never expected any discussion on this amendment, because it is a very mild request. What is needed is, as has been so well explained by my Honourable friends, Captain Sher Muhammad Khan and Mr. Yamin Khan, that the protection that this House has agreed to give to a constable, a chaprassi, a *chowkidar*, nay, even a municipal employee, should also be extended to the Indian soldier. It was really a surprise to me to find that the term, "public servant", as defined in the Indian Penal Code, had not so far included the Indian sepoy. So, Sir, this amendment does not require any argument from this side and the injustice that has so far been shown to the Indian soldier, who has been defending our frontiers, should not be continued. Sir, I support the amendment.

The Honourable Mr. H. G. Haig: Sir, my Honourable friend, Mr. Dudhoria, voicing, I think, an opinion which seems to be prevalent on the other side of the House, said that in the Select Committee the Government had admittedly the predominant voice. Now, Sir, that was most certainly not the case and this particular question that we are discussing is very much in point. The Government in the Select Committee put up exactly the case that they are putting before the House today. They never wavered in their anxiety to have this provision inserted in the Bill and they do not waver in it now.

I should like to explain, in the first place, how the amendment came to be proposed. In the original Bill, there was a provision that public servants should mean persons declared by the Local Government in the local official Gazette to be public servants for the purposes of this clause. Now, that provision would have enabled Local Governments to extend the protection of this clause to soldiers, and that was the intention of the Government when the Bill was introduced. In the course of consideration in the Select Committee, it was thought desirable that that wide power of the Local Governments should be eliminated and that in place of it there should be substituted a precise definition of those classes of persons who were to be protected. Consequently, in clause 3 of this Bill, a definition of a "public servant" was inserted. In that definition, it was not necessary to include soldiers because, so far as clause 3 is concerned, an attempt to induce a soldier to fail in his duty is already an offence under the Army Act. But it was necessary to include soldiers in clause 4 unless they

[Mr. H. G. Haig.]

alone among public servants were to be denied the protection of this clause. Mr. Dudhoria made some reference to cases against soldiers under this clause, if I understood him aright, being tried by military officials. I cannot understand whence he derived such an idea, but it is perfectly obvious that all that is proposed is that the protection of the civil law should be extended to soldiers. Cases in which soldiers have been boycotted will be tried by precisely the same Courts as cases in which civil Government officials have been boycotted. Now, Sir, as has been remarked several times in the course of this debate, the House has agreed to extend this protection to civil officials and it is extremely difficult to understand why it should not be extended to soldiers. Surely we are not going to let it be believed by our soldiers that Government are unable to protect them and their families against attack of this kind by an unlawful organisation. What effect would it produce on those whose function it is to protect us and protect the country if Government admit that they are unable to protect them? I can understand it being argued that in fact there is no necessity for this provision, and that it is a hypothetical case. That point has already been dealt with by my Honourable friend, Captain Sher Muhammad Khan. He showed that in fact it has been part of the Congress movement to boycott soldiers on leave and their families, and nothing can have a more deplorable effect on the feeling of the soldiers than to hear from their villages week after week that their families are being harassed, that efforts are made to drive them out of their villages, and to know that when they themselves go on leave, they might find themselves boycotted in their own villages. My Honourable friend, Mr. Ranga Iyer, said,—I think I got his words correctly,—that the soldier can look after himself. I wonder if he reflected on the implication of those words. How can the soldier look after himself? You deny him the protection of the civil law and you say, protect yourself by force. Is that the suggestion of my Honourable friend? Surely, Sir, the soldier is a citizen just as much as anybody else and is entitled to the same protection. My friend, Mr. Amar Nath Dutt, suggested that because we are fortunately living in times of peace we need not bother too much about soldiers. I feel that that is hardly a reasonable and generous attitude of mind. The protection of the country is one of its first interests and the protection of the country cannot be improvised. The protection of the country depends on an efficient and contented army. Mr. Amar Nath Dutt suggested that there were certain complaints against the behaviour of the soldiers in Bengal. The argument, I would suggest, is not really relevant to the point that we are discussing here. We have heard exactly the same kind of complaints made with regard to the civil officials, that in certain cases civil officials harass the people and, therefore, that this protection should not be given. Sir, I thought the House had realised that those arguments do not really answer the proposals that we put forward; and as they are no answer to the proposals we put forward in regard to civil officials, they are no answer to the proposals we put forward in regard to soldiers. But I would say this, that if his complainant whose identity has not been revealed will come forward and make under his own name a complaint to the local authorities, I have not the slightest doubt that that complaint will be fully examined and considered. But I must say that no such complaint has reached us and I would suggest to my Honourable friend, Mr. Amar Nath Dutt, and possibly to other Honourable Members of this House that their nervousness in regard to soldiers and the

behaviour of soldiers will disappear when they become more closely acquainted with them.

Sir, I support the amendment.

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

"That at the end of *Explanation* to sub-clause (1) of clause 4 of the Bill, **the** following be added:

"but includes also a person in the Military, Naval or Air Service of His Majesty'."

The Assembly divided:

AYES—52.

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.
Auklesaria, Mr. N. N.
Bajpai, Mr. G. S.
Khore, The Honourable Sir Joseph.
Power, Mr. E. H. M.
Burt, Mr. B. C.
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.
Lal Chand, Hony. Captain Rao
Bahadur Chandhri.

Mackenzie, Mr. R. T. H.
Macqueen, Mr. P.
Meek, Dr. D. B.
Mitter, The Honourable Sir
Brojendra.
Moore, Mr. Arthur.
Morgan, Mr. G.
Mukherjee, Rai Bahadur S. C.
Nayudu, Rao Bahadur B. V. Sri Hari
Rao.
Noyce, The Honourable Sir Frank.
Rafuddin Ahmad, Khan Bahadur
Maulvi.
Rajah, Rao Bahadur M. C.
Rau, Mr. P. R.
Ryan, Mr. T.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Scott, Mr. J. Ramsay.
Sher Muhammad Khan Gakhar,
Captain.
Singh, Mr. Pradyumna Prashad.
Smith, Mr. R.
Sorley, Mr. H. T.
Suhrawardy, Sir Abdulla-al-Mamun.
Tottenham, Mr. G. R. F.
Wajihuddin, Khan Bahadur Haji.
Yamin Khan, Mr. Muhammad.
Zulfikar Ali Khan, Sir.

NOES—32.

Abdoola Haroon, Seth Haji.
Abdul Matin Chaudhury, Mr.
Azhar Ali, Mr. Muhammad.
Badi-uz-Zaman, Maulvi.
Chandi Mal Gola, Bhagat.
Dutt, Mr. Amar Nath.
Cour, Sir Hari Singh.
Jha, Pandit Ram Krishna.
Jog, Mr. S. G.
Lalchand Navarai, Mr.
Liladhar Chaudhury, Seth.
Maswood Ahmad, Mr. M.
Misra, Mr. B. N.
Mitra, Mr. S. C.
Mody, Mr. H. P.
Murtuza Saheb Bahadur, Maulvi
Sayyid.

Pandian, Mr. B. Rajaram.
Patil, Rao Bahadur B. L.
Phookun, Mr. T. R.
Puri, Mr. Goswami M. R.
Raghubir Singh, Kunwar.
Ranga Iyer, Mr. C. S.
Reddi, Mr. P. G.
Reddi, Mr. T. N. Ramakrishna.
Roy, Rai Bahadur Sukhray.
Sarda, Diwan Bahadur Harbilas.
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath.
Singh, Kumar Gupteswar Prasad.
Thampan, Mr. K. P.
Uppi Saheb Bahadur, Mr.
Ziauddin Ahmad, Dr.

The motion was adopted.

Pandit Satyendra Nath Sen: Sir, I beg to move:

"That the *Explanation* to sub-clause (1) of clause 4 of the Bill be numbered as *Explanation 1*, and after the *Explanation*, as so numbered, the following further *Explanation* be added:

Explanation 2:—Acts done under unavoidable circumstances or on reasonable grounds such as social custom, religious belief, medical considerations, etc., do not come under the purview of this section."

This amendment seems to be a very reasonable one, because, although it appears last in the list, it has been practically spoken on by almost all the Honourable Members on this side of the House who have taken part in the discussion on this clause. Government want to give protection to their servants and it is an excellent proposal indeed. I do not object to that and I possibly cannot go behind the decision of 'this House; but I beg to submit most emphatically that the people too have a right to be protected. Numerous cases have been cited and suggested by Honourable Members where this clause is liable to be misapplied. Sir, this amendment seeks to give protection to those *bona fide* cases. It may be argued that the word "intent" occurring in the clause, if taken in its fullest connotation, may afford some protection to the *bona fide* cases; but I submit that the times are bad and the relations between the Government or, for that matter, the police and the people are extremely strained and it is very desirable that things should be as well defined as possible and as clearly put as possible in unambiguous language, especially in view of the fact that, under the present civilised administration, executive and judiciary are two different names of one and the same body. Some sort of safeguard has been proposed in sub-clause (2), namely, in the shape of the sanction of the Local Government, but I submit that it is nothing better than a fictitious safeguard. It means nothing, because if the Local Government means the Magistrate, that is to say, the district officer or Superintendent of Police, it is nothing more than a formality, and if it means something more, then there may be cases where that clause, instead of giving me any relief, will do me some positive harm, because the sanction of the Local Government will be regarded as a document against me which it will be very difficult for me to overcome. I have already stated that numerous cases have been cited where this clause may be misapplied. I may be permitted to cite one or two more cases. Suppose I am a house-holder and I have got a house to let; some Government officer approaches me and asks me to let the house to him. I tell him that I am really sorry I cannot oblige him, because I have already given my word of honour to some other gentleman. If the Government officer is pleased to disbelieve me, he may put me into difficulties if he likes. Then take another case . . .

Mr. K. Ahmed: You can give authentic proof: it is rebuttable.

Pandit Satyendra Nath Sen: But why should I be held at all responsible? The responsibility should rest with the Government. Then, again, the Government officer may be professing a different religion and have customs and habits utterly different to those of mine. Am I bound to accommodate him? Am I bound to invite him and accommodate him at the sacrifice of my religious belief, simply because people like Sir Muhammad Yakub may say "yes, you are bound to do so."? My friend, Sir Muhammad Yakub, cited a case the other day which has nothing to

do with the civil disobedience movement which this Bill seeks to fight. I might also remind my Honourable friend and also my other Muhammadan friends that it is not merely the Hindus who should be apprehensive of the misapplication of this clause, but my Muslim friends should be equally apprehensive, because the Government officer may be a Christian or a Sikh who may introduce into the kitchen something which my Muhammadan friends may not very much like

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): They are also to blame like that.

Pandit Satyendra Nath Sen: Sir, this is neither the place nor the occasion to discuss whether those notions are right or wrong, but there is no denying the fact that such notions do exist and they deserve to be protected.

Sir Muhammad Yakub: Is this the way of combating untouchability?

Pandit Satyendra Nath Sen: No, Sir; I am very sorry the question of untouchability has been introduced in this connection. Reference was made by my friend, Mr. Amar Nath Dutt, to untouchables when he spoke on a previous amendment to this clause. Personally speaking, I do not like that such frequent references should be made to my untouchable friends, because our relation with them has always been one of amity and concord.

Sir Muhammad Yakub: Question.

Pandit Satyendra Nath Sen: until recently, when some of the youngsters are being led astray by external and heterodox influences. I think I should not expatiate on this point any further, and I shall pass on to the next point. Suppose I am a medical practitioner, and a call comes from a Government servant at an unusual hour, say, at 2 or 3 A.M. I may not by chance be feeling quite well to stir out at that unearthly hour. I don't think that I shall be bound to attend that call at the risk of my life. It is needless to multiply such instances. Suffice it to say that there may be cases which are entitled to protection, and if the Government are not unreasonable, they should accept this amendment which speaks of unavoidable circumstances and other reasonable grounds. With these few words, Sir, I move my amendment.

Mr. Amar Nath Dutt: Sir, questions which are not strictly relevant to the matter under discussion have been introduced by way of interjection by my friend, Sir Muhammad Yakub, about untouchability and other things, but however one may dislike my friend, Pandit Satyendra Nath Sen's orthodox views

Hon. Captain Rao Bahadur Chaudhri Lal Chand: Mr. Sen ought to say "Save me from my friends!"

Mr. Amar Nath Dutt: and however one might disapprove of my friend, Pandit Sen's orthodoxy and his desire to force his orthodox views upon an willing House, still I think we ought to give him a patient hearing and consider his amendment seriously and carefully. What does

[Mr. Amar Nath Dutt.]

my friend want? He wants that protection should be given in cases of social custom, religious belief and medical consideration. I shall take one by one these three items. With regard to social custom, if the society to which a man belongs, enjoins him to do a certain thing and if your legislation compels him, under threat of punishment, not to do that very thing, I think all social order will come to an end. Conceptions of social morality and social institutions differ widely in different races and in different climes. Our social customs are certainly not the same as those of my English friends. Our social custom, I here speak as a Hindu, is certainly not the same as yours. Sir, the institution of marriage is the foundation of every civilized society except perhaps in that ultra-civilized society in Russia. Sir, I am always afraid of the four-letters U. S. S. R., and certainly I would be with the Government in supporting any measure that they might like to introduce to protect us from the onslaughts of U. S. S. R. principles which are making headway at the present moment. The elementary principle on which a society can live in amity and concord to the advantage of all its component parts is that every one should be free to follow the social custom or social institution in which he lives. There should not be any interference in this matter. Rightly or wrongly, my friend over there may have objection to let his house on rent to a man who takes ham or beef. I may tell him that, although I have no prejudice, I am also against letting out my own house to a man who would take beef or ham. I would consider my kitchen desecrated, and certainly likewise my Muslim friends would also consider their kitchen desecrated if any tenant cooks food which is forbidden to them in their kitchen. Sir, I ask, are we not to take into consideration these cases of social custom? Are we to thrust our own views upon others? How would one like, if our views were thrust upon the Englishmen, if, for instance, we said: "You must put your ladies in *purdah*. Have them engaged. Don't bring them out". How would you like that? If my social custom prevents me from letting out to certain persons of certain castes of my own religious persuasion, if I rightly or wrongly believe in that, what right have my advanced friends like Diwan Bahadur Harbilas Sarda, who has already advanced a great deal in the matter of social legislation which has brought him a Diwan Bahadurship, to thrust their views on us? If I legislate and compel him to have his daughter married at the age of 3 or 4, how would he like it? So, if we want to live in peace and amity, we must be tolerant of other views, instead of being intolerant as my Honourable friend, the Diwan Bahadur.

An Honourable Member: Don't forget Sir Hari Singh Gour.

Mr. Amar Nath Dutt: Sir Hari Singh Gour is a social reformer of another type. These two gentlemen do not bear any resemblance to social reformers of the type of Raja Ram Mohun Roy and Keshub Chunder Sen. I have dealt with social custom. Then there is the question of religious belief. I do not believe in religion. I wonder how intellectual people can believe all those things which they say in churches, temples or mosques. Be that as it may, though I am myself an agnostic, I do say that I have no right to force my own agnostic views upon others. Let them believe in God, let them believe in a thousand and one gods, let them be idol worshippers, but I have no right to interfere with them.

If I believe in a particular faith, no man of another religious persuasion should compel me to let out my house to the man whom my religious tenets enjoin me that I should not let out my house. There is no danger in case of a man like myself, but in the case of men who are believers in religion,—and I have found many who really do believe in all those Shastric injunctions and think that unless they do not act in a particular way they will be punished in the life hereafter,—well I do contend that these people are entitled to freedom of religious belief, however much I may not agree with them. I am not like one of those iconoclasts of Ajmer, or Kulupahars, as they are called in Bengal. I do not believe in the destruction of any religion or regions beliefs whatsoever although I may not believe in one. Still I respect the religious beliefs of others,—not that I do pay homage, but I do pay homage to them for their sincerity and wish to live with them in peace. No civilised Legislature should interfere with the religious beliefs of the component parts of society.

As regards medical considerations, the example which my Honourable friend over there has given is enough. He belongs to race of physicians, i.e. the Vaidya caste, and he knows the difficulties well. He has suggested, on a cold night a physician may not like to go out. I know of very poor litigants coming to the honourable profession to which my Honourable friend and myself belong, whose briefs we have refused (An Honourable Member: "Why?") for reasons which it will be shameful to acknowledge in this House. (An Honourable Member: "What is that?") You know that. Under these circumstances a Vaidya or a gentleman practising medicine may refuse to go at certain hours of the night. There is one other danger. Who is competent to give medical advice? I will give you one instance. The Secretary of the U. P. Legislative Council has got reputation as a good homœopath, although he did not attend any college. He practises medicine only privately. Will this man be called and is he bound to go? The clause says: "medical aid". I know also some medicine. My Honourable friend, Mr. P. R. Rau, over there who deals with finances may know one medicine and I may demand of him, if I am fortunate enough to be a Government servant, to render me medical aid. So no one will be left alone. Not even my Honourable friend, the Law Member, will be exempt from it. Therefore, there ought to have been some such thing like this, those who have passed any medical examination of any college or any university. I think my Honourable friend's suggestion on this ground alone of medical consideration ought to appeal to the Treasury Benches. Again, the man may be very ill to attend, apart from the question of being called at unearthly hours, or he may be asked to attend at a distance. You are protecting Government officers in the villages. In villages, I know, the ordinary M. B. lives at a distance of 6, 8 or 10 miles. Now, the conveyance over there is a *palky*, and, in these days of the rise of the depressed classes and the untouchables, I know there is a movement afoot in which the palanquin bearers have refused to carry a man and they consider that it is disgraceful to have a man on their shoulders. That being so, palanquins will not be available and a medical practitioner who cannot ride a horse in the villages will find it impossible to go and attend on a patient. I come from a part of Bengal which is particularly inundated by the River Damodar and my Honourable friend over there has not had that experience having lived most of the time in the once metropolis of India. Sir, considering the difficulty of these flooded areas, I think this is a reasonable amendment. Every one of the three items on which he lays stress deserves special

[Mr. Amar Nath Dutt.]

consideration from the Members of this House. It may be that we are not able to put forward our arguments in the same convincing way in which Members of the Treasury Benches can put it, but, I hope, instead of belittling our arguments, they will see to their reasonableness and will try to persuade themselves to accept this amendment.

Mr. B. V. Jadhav: Although on many occasions I do not see eye to eye with the Mover of this amendment, still in this case I think it my duty to support the amendment. As a matter of fact, amendment No. 66 which stood in my name covered one of the parts of this present amendment. It is a well known fact in the Bombay Presidency that Government officers who generally do not object to a meat diet find it very difficult to secure lodgings in places where they are transferred to. I may be pardoned for giving a bit of family history. My brother is in the judicial service and on many occasions when the name of non-co-operation was not even known he found that he could not get on hire the very house in which the previous incumbent lived. My brother is a meat eater, as also myself and that was an objection to his getting a good and eligible house. The houses belonging to the meat eating classes are of course available and in *taluka* towns, there was not much difficulty at all and, therefore, he has not been put to great inconvenience. At present he has been transferred to Surat which is in Guzerat and there he found it very difficult to rent a suitable house. But this reluctance of the house owners to rent their house to him is not due to any political motives. It is their idea that their houses will be polluted by giving it to a meat eater. This mentality of the people, however foolish it may appear to me and others, ought to be respected and provisions ought to be made in this Bill for not putting unnecessary hardship on such people. Now, the clause, as has been worded by the Select Committee, makes it incumbent upon the owner of the house to let the house, which is ordinarily let on hire, to a Government servant. In such a case, a meat eater may claim to get the house which was occupied by the previous incumbent and it will really be a hardship to the owner of the house to let it to him. The other items in the present amendment also deserve to be seriously considered and not passed over. My friend, Mr. Sen. has not brought this amendment to throw an obstacle in the passing of this Bill, but his motive springs from a love of the people and, therefore, I am confident that this House and particularly the Treasury Benches will accept it.

Mr. T. N. Ramakrishna Reddi (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): I rise to support this amendment. By the present Bill the Government want to suppress the civil disobedience movement and they have drafted this clause 4 which is directed against boycott. Now, the present amendment wants to exempt certain acts from the operation of this clause on certain social and religious grounds. Since the object of this Bill is only to put down the civil disobedience movement, Government have to see whether there is any political motive behind this amendment. Now, in the Simla Session, the Leader of my Party and also Mr. Sarda introduced certain social legislation when the whole House and, especially our Muslim friends, expressed their opinion against social legislation. They said that that was not the time to pass social legislation, that Government should not interfere with the social and religious beliefs of the people and that that legislation drove a coach and four against the social and religious belief of a large section of Hindus as well as Muslims.

Take this question of letting a house. I am not a bigoted Hindu. I am an extreme social reformer, but I have to speak not on behalf of myself only, but of a large section of my Hindu countrymen. Now, in Southern India, in my province there are many villages which are called *Agraharams* inhabited exclusively by the Brahmin community. There is a tank and there are houses all round and they do not allow members of other castes of the Hindu community even to occupy those houses. They consider it a matter of pollution. Now, if you pass this legislation, it will not prevent any official, be he a Hindu or a Muslim, from taking up a house which he wants for temporary occupation. The Government say that they are opposed to direct action pursued by Mr. Gandhi and Mr. Kalappan. Here this is also direct action on behalf of the Government. They are introducing the principle of direct action by this clause which they themselves have been condemning. Now, they want to provide an official with a house which, on account of religious belief or social custom, the house owner does not want to let. Then, this is made penal. I also submit that the Government are not even consistent. By another clause, clause 7, they want to introduce another piece of legislation, in order to cover the offence of "molesting a person to the prejudice of employment or business". Clause 7 provides:

"Whoever, with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs. . ."

The Honourable Mr. H. G. Haig: Sir, is it in order for the Honourable Member to discuss clause 7 of the Bill on this amendment?

Mr. T. N. Ramakrishna Reddi: I am just referring to that clause by way of illustration, Sir. I am just pointing out to the House the inconsistency between one clause and another. The Government, by enacting clause 7, do not want interference with regard to the enjoyment of rights of one's property. By this clause they want to have such interference. They want every house to be let even though the house-owner does not want to let it to an official on religious grounds. Sir, your whole object is to stop the civil disobedience movement, but not to interfere with the religious or social beliefs of the people. If that is so, why should the Government want to interfere with such religious or social beliefs if these prohibit the letting of a house to somebody? Then Government do not want that anybody should interfere with the enjoyment of a property of any person. But, by this clause they want such interference. Sir, I do not want to multiply the instances wherein, if this clause is passed, it will trench upon the religious and social beliefs of the people. So, I submit, Sir, that this is an amendment which the Government themselves, if they are to observe consistency, ought to accept.

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

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

Mr. O. S. Ranga Iyer: Sir, I do not want to make a very lengthy speech, but I would put to the Honourable the Home Member, who quoted during his Simla speech Carlyle and his French Revolution, another offer

[Mr. C. S. Kanga Iyer.]

on the subject, namely, the great Irish statesman, Edmund Burke, who, in his "Reflections on the French Revolution", said:

"Man is by constitution a religious animal."

It is but proper that in this debate the religious question should be raised by my deeply religious friend for whose feelings and the feelings of those, who think like him in the country, the Opposition and the Government must show real respect. I would put it to the Honourable the Law Member whether he—if he is not a religious man in the orthodox sense, he is still a truly religious man—will contemplate with equanimity, so far as Orthodoxy is concerned, the entering of an untouchable police officer into the house of an orthodox Brahmin or a caste man? There are provisions in this clause which I, at any rate, am convinced, that my friend, Pandit Sen, suspects, and it is for the Honourable the Law Member or the Home Member to clear his apprehension and suspicion. Lastly, I will say only one word: We gave the Home Member "an ell" in the last amendment, will he not give us an inch in this? (Laughter.)

Rao Bahadur B. L. Patil (Bombay Southern Division: Non-Muhammadan Rural): Sir, I rise to support the amendment moved by my Honourable friend, Pandit Sen. Apart from religious or social considerations I should like to support this amendment only for one reason. If we examine the amendment, we will see that there are certain circumstances which can be pleaded and proved by way of defence by the accused under this clause. If the intention is that the accused should be able to prove special circumstances in mitigation of his offence, why should it not be made clear by means of an Explanation to the clause itself? That is the whole point.

Let us take an instance so far as the letting out of a house is concerned. There may be special circumstances: the accused may like to prove in his defence that under particular circumstances he was prevented from giving his house. We know already that this particular clause is characterised as drastic and nobody can even hesitate to call it monstrous and the words are so wide that anything can be included to come within the four corners of the clause. If that is the case, it is but right and proper that the apprehensions should be removed by making the provisions clearer and also by making it clear under what particular circumstances the accused person can get out of the clutches of the provisions of this clause. Therefore, for this very simple reason, I support the amendment.

The Honourable Sir Brojendra Mitter: Sir, I fully sympathise with the orthodox sentiments which have prompted this amendment, but, at the same time, I am bound to point out to the House that the whole of the debate this morning has proceeded upon a misapprehension. Clause 4 creates a new offence. There are two elements in this offence. One is, which, for the sake of brevity, I shall characterise as wrongful intent, that is, the intent to harass a public servant in the discharge of his duty. That is an essential element. Secondly, some overt act or omission. Both the elements must be present before an offence can be established. Now, if we examine the amendment in the light of this explanation, we will see its absurdity. Sir, the first point which the Honourable Pandit Sen took was that a person should be excused if it became impossible for him to let out a house or to do any other thing mentioned in the clause. By

way of illustration, he said that there was a house which was ordinarily let, but when the public servant came along to occupy the house, the owner said: "I have already let it to another person". That is to say, it was not possible for him to let it out to the officer. That is the illustration he gave.

Pandit Satyendra Nath Sen: What I said was that I have already given my word of honour to another gentleman.

The Honourable Sir Brojendra Mitter: That is as good as letting out the house. Now, Sir, that is a case of impossibility of performance, because you have given either your word of honour or your word which may be interpreted as an agreement in law. It is immaterial. Sir, there is a well recognised principle of law which the Honourable Pandit ignored. It is this:

impotentia excusat legem

It means this:

"*impotentia*.....excuses when there is a necessary or invincible disability to perform the mandatory part of the law or to forbear the prohibitory."

The learned author—I am reading from Broon's Legal Maxims—goes on to say:

"The law, in its most positive and peremptory injunctions, is understood to disclaim, as it does in its general aphorisms, all intention of compelling to impossibilities, and the administration of laws must adopt that general exception in the consideration of all particular cases. It is a general rule which admits of ample practical illustration: where the law creates a duty or charge, and the party is disabled to perform it, without any default in him, and has no remedy over, there the law will in general excuse him."

Therefore, an unavoidable circumstance, such as the Pandit mentioned, is a ground of exemption. If such circumstances exist, then no offence is committed. (A *Voicé*: "Do all the Magistrates know this principle?") They ought to know. My second ground is this that in such a case the essential wrongful intention is absent. Your refusal to let the house to the public servant is based not on the ground of harassing him, but on the ground that you have given your word of honour to another person and you are not in a position to let the house to him. One of the essential elements in the offence, namely, the intention to harass is absent. Therefore, no offence is committed. At any rate, the most ignorant Magistrate ought to know this that the intention must be proved by the prosecution and when the circumstances themselves negative that intention, where is the offence?

That is with regard to unavoidable circumstances. Then I come to social custom and religious belief. With regard to this even
 3 P.M. my Honourable friend, Mr. Ranga Iyer, said that a Brahmin houseowner might have religious or social scruples to let out his house to an untouchable police officer. Sir, apply the test, what is the dominant idea in the mind of this orthodox Brahmin houseowner? The dominant idea is that his immortal soul would be lost if the untouchable policeman entered his house. The dominant intention is not to harass the public servant, but to save his own soul. That being so, no offence is committed.

Sir Muhammad Yakub: Is that really so?

The Honourable Sir Brojendra Mitter: At any rate that is what he professes. He professes to refuse an untouchable police officer because he is untouchable and the houseowner belongs to the Brahmin caste.

Mr. B. V. Jadhav: Will an ordinary Magistrate appreciate this fine argument?

The Honourable Sir Brojendra Mitter: This is not a fine argument; this is as broad an argument as should be intelligible to the meanest intellect, and a Magistrate who cannot appreciate an argument of this sort has no business to sit on the Bench.

Mr. T. N. Ramakrishna Reddi: Then why not accept the amendment?

The Honourable Sir Brojendra Mitter: Because it would be foolish to accept it.

Then, with regard to social custom and religious belief

Mr. C. S. Ranga Iyer: Sir, I should like to know from the Leader of the House whether he considers that we, who have been urging him to accept this amendment, are stupid. (Laughter.)

The Honourable Sir Brojendra Mitter: I do not say that any Honourable Member is stupid; I say that the amendment is a stupid amendment, because it is meaningless, and I am proceeding to show how it is meaningless. Sir, I began by appreciating the motive behind this amendment. I fully sympathise with Pandit Sen's orthodoxy; I myself am an orthodox person. (Laughter.)

Then, Sir, the next reasonable ground which is mentioned in the amendment is medical consideration, and, by way of illustration, Pandit Sen says, that if a doctor were called at an unearthly hour, say, about 2 or 3 in the morning, and it is raining hard and no conveyance is available and he has to go six miles to see a patient and he is himself ill. In these circumstances he cannot go; is that an excuse in law? My answer is that the clause itself makes it an excuse. The clause says this:

"withholds from such person or his family such medical services as he would ordinarily render," etc.

Surely, Sir, he would not ordinarily go to see a patient, be he a public servant or a Congressman, at 2 o'clock in the morning when he himself is ill, it is raining hard, and no conveyance is available and he has to cover a distance of six miles. And, if he refuses that sort of service in those circumstances to a public officer, then under this clause no offence is committed.

Pandit Satyendra Nath Sen: But I am placed at the mercy of the police.

The Honourable Sir Brojendra Mitter: I do not see where the mercy of the police comes in.

•My Honourable friend, Mr. Amar Nath Dutt, brought in another argument and gave another illustration of a non-professional medical man who practises medicine, that is, a quack. Well, Sir, if a quack

refuses to go and see a public servant, he cannot be prosecuted under this clause. I do not suppose that a man who does not ordinarily practise medicine can be brought within the scope of this clause which talks of withholding medical service which must be normal medical service by a person whose business it is to render medical service. If such a man in normal circumstances withholds medical service from a person, because the latter is a public servant, it is then and then only that he comes within the mischief of this clause, provided always that the intent to harass the public servant in the discharge of his duties is dominant in his mind. And that intention has to be proved by the prosecution. The onus is fully upon the prosecution to prove that there is this wrongful intent; and the prosecution will also have to prove that what has been withheld is ordinary service.

That disposes of all the points which have been taken. In the light of the explanation which I have submitted to the House, if you read this *Explanation*, what does it mean? It means this that what is not an offence will not be an offence under this clause, and would it not sound foolish,—I ask Mr. Ranga Iyer? When I used that expression, I meant that, that when you properly appreciate the clause and apply the ordinary principles of law for the interpretation of the clause, then this amendment would be nonsensical. That is all I meant. This amendment would then mean that what is not an offence in law will not be an offence under this clause.

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

"That the *Explanation* to sub-clause (1) of clause 4 of the Bill be numbered as *Explanation 1*, and after the *Explanation*, as so numbered, the following further *Explanation* be added:

Explanation 2:—Acts done under unavoidable circumstances or on reasonable grounds such as social custom, religious belief, medical considerations, etc., do not come under the purview of this section."

The motion was negatived.

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

"That clause 4, as amended, stand part of the Bill."

The motion was adopted.

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

"That clause 5 of the Bill be omitted."

Clause 5, as recommended by the Select Committee, consists of two sub-clauses. The first sub-clause is as was proposed in the first draft and the second sub-clause is added as a safeguard against any excessive zeal of the police officers or the Magistrates before whom the cases will go. Although I admit that the rigour of the clause has been much softened by the second sub-clause, still I feel that the whole clause is not required. The first sub-clause is this:

"Whoever publishes, circulates or repeats in public any passage from a newspaper, book or other document copies whereof have been declared to be forfeited to His Majesty under any law for the time being in force, shall be punished, etc."

[Mr. B. V. Jadhav]

This process of forfeiture to His Majesty of a book, newspaper or other document is not a monopoly of the non-co-operation days. This has been going on from before, and when a book or a newspaper was forfeited, it was not considered necessary to have such a clause before the non-co-operation movement came into existence. I do not see why in these days this special clause is considered necessary when, in ordinary times, such a clause as this was not regarded as necessary at all. The publication, circulation or repeating of a passage from a newspaper was formerly dealt with under the ordinary provisions of the Indian Penal Code, and I submit that those provisions are now sufficient to guard against the evil. There is no necessity for this clause at all, and, therefore, Sir, I move that the whole of this clause be deleted.

Mr. S. C. Mitra: Sir, though I have given no notice of such an amendment as the one just moved by my friend, Mr. Jadhav, still I think it is a very reasonable amendment. Government must prove that there is necessity for such a clause as this. There are the well established laws of sedition. If anybody is found to fall under the mischief of the various provisions of the Sedition Act, action can certainly be taken against him. Why should the Government now try to introduce, a fresh clause in this emergency legislation? Further, Sir, the whole clause has been drafted in such a way that in parts it becomes meaningless. It reads thus:

"Whoever publishes, circulates or repeats in public any passage from a newspaper, a book or other document, copies whereof have been declared to be forfeited to His Majesty under any law for the time being in force, etc., etc."

I shall take up the first item. Let us say that a newspaper of a certain day has been declared as forfeited to His Majesty or is regarded as a proscribed document. Now, it is a well-known fact that in a newspaper many items are dealt with, and, under the present law or under the law that is going to be enacted, there is no provision anywhere that the Government are bound to specify which particular item in that newspaper has been proscribed? I think, later on, the Honourable the Leader of the House will argue that these are absolute liabilities and no intention need be proved; any man who may cite in another article or in a speech a portion of that proscribed newspaper will come under the mischief of this clause. The other day, my friend, Mr. Ranga Iyer, cited the case of the demand of Rs. 20,000 that was made from the *Free Press Journal*. The same thing has happened there. It is very difficult to know what is acting in the mind of the Government. It is not stated anywhere that Government should say specifically what are the particular passages in a particular book or newspaper, that is proscribed, objected to. Now, there are many books which contain very sound and healthy matter, but there may be one or two passages in any one of them to which Government may take exception. It is not an imaginary argument, it is happening every day: Government will not care to specify how, and in what way, the particular passages to which they take exception are regarded as objectionable. In a daily newspaper there are many fundamental ideas that are being developed, any number and variety of subjects are being dealt with, and it is under this new clause that Government want to prosecute the publisher. At the same time, I cannot understand why the sedition section of the Indian Penal Code is not being availed of. It has stood the test of time, and Government cannot say that they have failed to bring under the clutches of the law

any journalist or the author of any seditious literature. Under this clause, which contains the words "newspaper or other documents", which is a general term, it will be dangerous for a person to write any book or even to quote from any book, because he may quite unawares come under this clause.

My friend, Mr. Jadhav, said that in sub-clause (2), there is an attempt made at improvement. Certainly it is so, but there is another side of that question as well. Before a prosecution is launched under clause 2, it is provided that :

"No court shall take cognisance of an offence punishable under this section unless the Local Government has certified that the passage published, circulated or repeated, contains, in the opinion of the Local Government, seditious or other matter of the nature referred to in sub-section (1)", etc.

A poor Magistrate or, say, a First Class Magistrate finds that the Local Government has already decided that they are of the opinion that a certain matter is seditious, I say, in that case the whole trial becomes a mockery. In this country, as we all know, the judiciary is completely under the thumb of the executive in spite of all efforts for the last 40 years on the part of the Congress and other public bodies, and we have failed to secure the separation of the judicial from the executive. Under the provisions of this clause, the Local Government certifies that it is of the opinion that a certain matter is seditious. Then, what is the use of having a trial? That Magistrate must be a very bold man who will say that the opinion of the Local Government is wrong. So, I think, Sir, though this clause is regarded as a slight improvement, in its application it will be of no efficacy. As I find there is no necessity for further legislation in addition to the present sedition law, I support the motion of my friend, Mr. Jadhav, for the deletion of this whole clause.

Mr. C. S. Ranga Iyer: Sir, my Honourable friend Mr. Mitra, has already advanced sufficient reasons as to the undesirability of having a clause like this. I admit that in sub-clause (2), the wine is diluted with a certain amount of water, but, Sir, all the same, from the temperance point of view, we who urge political temperance will insist that alcohol of any kind is bad. If the Government wanted to intoxicate the political civil disobedience movement, they could not have done worse than having a clause of this kind, for the very simple reason, as the Honourable the Home Member cannot deny, the civil disobedience people have to go to the sea side to find salt to break the law. Now, the Honourable the Home Member puts into the hands of the civil disobedience people a very easy method of breaking the laws. Therefore, Sir, if the purpose is not to advance the cause of civil disobedience, I would advise him to abandon this section. (Laughter.)

Major Nawab Ahmad Nawaz Khan (Nominated Non-Official): Sir, I oppose this amendment. I see no harm in clause 5, and all the apprehensions to which expression was given by previous speakers are imaginary. Really the object of the Government is to make an offence punishable in wholly objectionable matters, and, under this clause, they will be able to prosecute any author of an article in a newspaper or publisher of a book. But to meet that objection and to leave no room for doubt, I request the

[Major Nawab Ahmad Nawaz Khan.]

insertion of the word "objectionable" before the word "passage", so that the clause would read thus:

"Whoever publishes, circulates, or repeats in public any objectionable passage from a newspaper, etc."

Then there would be no ground for the objections raised by the Opposition that if the book contains some good and bad matter, even a good sentence may come within the operation of this clause. No doubt the Magistrate or the law-giver will understand the aim and object of this clause, but if the Law Member thinks it fit, he may improve the clause by adding that word "objectionable", and it will clear the whole position. (*An Honourable Member*: "Then move an amendment.")

Mr. T. N. Ramakrishna Reddi: I support the deletion of the whole clause. There is already a section in the Penal Code dealing with sedition and, as such, there is no necessity for introducing another clause in this Bill. The mischief of this clause has been admitted by the Government themselves in the report which the Select Committee have submitted on this Bill. Against clause 5 they say:

"We are impressed by the danger that persons who inadvertently repeat a passage not harmful in itself from a newspaper which has been declared to be forfeited may be exposed to the mischief of this clause. We have accordingly introduced by sub-clause (2) a provision which, we think, will be sufficient safeguard against this danger."

So, the Government themselves realise the mischievous nature of this clause, and, in order to remove that mischief, they have introduced sub-clause (2) which merely enhances and does not remove the mischief itself. It adds to the mischief. The sub-clause says:

"No Court shall take cognisance of an offence punishable under this section unless the Local Government has certified that the passage published, circulated or repeated contains, in the opinion of the Local Government, seditious or other matter of the nature referred to in sub-section (1) of section 99-A of . . ."

Under the clause, as it originally stood, it was the Court which has to decide whether a particular passage under question is seditious or not, but here it comes with redoubled force before a Court with the certificate of the Government. It is the Government which have to certify that the particular passage is seditious and that it has been published. So everything has been certified by the Government and the Magistrate has to accept the certified opinion of the Local Government. Of course, I am not oblivious to the fact that sub-clause (2) was intended to remove the mischief created by sub-clause (1) which brings under the mischief of its all embracing scope every bit of published matter contained in the newspaper. Suppose a book contains very good matter in all other respects and only a portion of it is seditious. Then the whole book is proscribed by the Government. If a person reads or publishes or circulates or repeats any other passage which is not seditious, then, by clause 2, it is intended that the person should be excluded from the operation of this clause. So, in that respect, it improves the position, but, in other respects, it makes the mischief much more, because the Government, by issuing the certificate for prosecution, have already come to the conclusion that the particular passage comes under the scope of the clause and it has been published. So there is no necessity for this clause at all, in this Bill as there is already a provision in the Penal Code. I support the deletion of the whole clause.

Rao Bahadur B. L. Patil: I rise to support the amendment for the deletion of this clause. My first objection to this clause is that it does not provide for an innocent publication. There may be people who do not know what particular books are proscribed by Government. They may publish innocently matters which they think to be innocent, and it would be unjust to prosecute and penalise such publications. That is my first objection to the drafting of the clause. I say it was the duty of the draftsman to include such an element in this clause. Then, generally books and publications are proscribed for three reasons, firstly, on the ground of sedition, secondly, on the ground of promoting hatred between communities, and, thirdly, for immoral or indecent matters contained therein. These are the main reasons why publications are proscribed in this country or in other countries, and I submit that in the existing law there are sufficient provisions, even drastic provisions, to bring to book all such publications. And yet this clause is enacted in such wide terms, that it will lead to injustice, instead of doing justice. One inevitable result would be that it will gag the press further, which is already gagged to the highest degree. Therefore, I support the amendment whole-heartedly. I should like to point out to the House that it is open to the Court and to the Government to prosecute and punish any person who publishes such matter if the particular passages or particular words come under the existing provisions of the law. I am afraid that the Honourable the Leader of the House might perhaps call this amendment also stupid or foolish; but as I honestly believe that this clause will lead to injustice and gag the liberties of the press, I am bold enough to support the amendment whole-heartedly.

Mr. Amar Nath Dutt: Apart from the objection to the enactment of a clause like this which I cannot support, I have my difficulty about the phraseology of the clause itself, and I shall point it out to the Treasury Benches. It is for them to explain, and it may be that they have got certain explanations. People who ordinarily have to appear before Magistrates whose knowledge of law is not far superior to our own who practise in humbler Courts—I think they will also be in a certain difficulty about this. The wording of the clause is as follows:

“Whoever publishes, circulates or repeats in public any passage from a newspaper, book or other document. . .”

It says, “other document”. Here my difficulty arises. The word “document” has been defined in section 29 of the Indian Penal Code, and there, of course, the word “printed” does not appear:

“The word ‘document’ denotes any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.”

“It is immaterial by what means or upon what substance the letters, figures or marks are formed or whether the evidence is intended for, or may be used in, a Court of Justice or not.”

This is Explanation No. 1. Then we have another Explanation No. 2 which says:

“Whatever is expressed by means of letters, figures or marks as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures or marks within the meaning of this section, although the same may not be actually expressed.”

[Mr. Amar Nath Dutt.]

Here we do not find the word "printed" at all. Now in section 99A of the Criminal Procedure Code as amended by the Legislative Assembly ten years ago, it says:

"Where any newspaper or book, as defined by the Press and Registration of Books Act, 1867, or any document wherever printed appears to the Local Government" and so on.

Here we not only make printed documents punishable, but also other documents of the nature of that defined in section 29 of the Indian Penal Code. Now the clause says:

"Whoever publishes or circulates or repeats in public any passage from a newspaper, book or other document."

So it is not confined to printed matters only. Now I would like to know whether they want to confine this only to printed documents or to every document which comes within the definition of section 29 of the Indian Penal Code. On this phraseology many of the lawyers appearing on different sides will place their interpretation according to the interests of their clients, but there is another gentleman, I mean the trying Magistrate, however estimable he may be, his knowledge of law, as I have said, is not much superior to that of the humbler advocates appearing before them. They will also find themselves in difficulty. They will have to cut the Gordian knot by convicting the accused. The days are not yet passed when "no conviction, no promotion" was the rule. That is still the rule. In fact they take pleasure in convicting a man whenever a man is produced before them. In fact, I remember an esteemed friend of mine, who once was a member of the bar, but who is now occupying a magisterial chair in some important place. Since he was appointed Deputy Magistrate, he found it difficult to believe that men brought before him for trial are innocent and he thought that only those people are prosecuted by the police who have committed some offence. This is the general mentality of Magistrates. That being so, it is better that the Honourable the Law Member sees his way to delete this clause in order to avoid the confusion arising from the definition of the two sections *viz.*, section 29 of the Indian Penal Code and section 99A of the Criminal Procedure Code. I beg to submit that considering the clumsiness of the drafting, if I may be permitted to use that word, this clause ought to be deleted.

The Honourable Mr. H. G. Haig: Sir, it has been suggested by Honourable Members opposite that there is really no necessity for this clause, that we have introduced it wantonly into the Bill. I suppose in order to make a display of our power. The provision, however, had a perfectly practical origin. Before the organised disobedience of the law was started in 1930, it was found, where there was a document of this kind which was proscribed by the Local Government, that the act of proscription was effective and that persons did not attempt to defy that order by publishing the proscribed matter. But, early in the first civil disobedience campaign, it became a regular practice that passages from proscribed books and documents were deliberately read out at public meetings in order to defy the law. It is not, therefore, as my Honourable friend, Mr. Ranga Iyer, suggests, that we are going out of our way to

present people with easy opportunities for breaking the law. The law was in fact being made ineffective and we have to stop this gap. When the clause was discussed in the Select Committee, an objection was raised, which we on the Government side felt to be a reasonable objection, that in the case of a newspaper, for instance, which might contain a great deal of perfectly harmless matter, it was undesirable that the clause should be expressed in such a way that technically, though of course in practice no such thing would happen, anybody who read out any passage from that proscribed newspaper would be committing an offence. We attempted to meet that difficulty by providing that no Court should take cognisance of an offence punishable under this clause unless the Local Government had certified that the passage, in the opinion of the Local Government, contained those very matters which justified the Local Government in proscribing the newspaper. In other words, we ensure in this way that no one would be prosecuted except for repeating a passage which was in fact the basis of the proscription by the Local Government: and that, Sir, I submit is a reasonable provision. It has been said that in fact the Magistrate will have very little to do in such cases. I quite admit it. This is really, in essence, an executive proceeding,—the proscription of a book or document. Now, in order to make that executive proceeding effective, one must provide that the publication of any portion of that book or document in defiance of the order should be punishable. All that is required to prove is that the book has been proscribed and that it has been deliberately published or circulated. Now, we should defeat the whole object of this provision if we allowed cases of this kind to develop into a regular trial for sedition. If, in fact, it were sufficient to deal with these seditious publications by direct prosecution for sedition, then no one would make use of this proscription provision. It is the fact—and I frankly admit it—that this is an executive proceeding, which, if there is any defiance of it, has got to be completed and followed by a legal process. Now, Sir, I do not think that there is anything more I need say except to suggest that one Honourable Member opposite fastened on a phrase which is used in the Select Committee's Report about "being exposed to the mischief this clause", and on that, he suggested that we had ourselves admitted that the clause was mischievous. (Laughter.) Well, Sir, this phrase is one which my legal friends are very fond of,— "the mischief of the clause". Personally, not being a legal person, I should have preferred to use the word "scope", but they like "mischief" and I cannot argue with them or attempt to alter their legal phraseology. (Laughter.) But, Sir, this in fact is a very necessary and un-mischievous clause. I oppose the amendment.

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

"That clause 5 of the Bill be omitted."

The motion was negatived.

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

"That in sub-clause (1) of clause 5 of the Bill, after the word 'Whoever' the words 'with malicious intention' be inserted."

Sir, I am conscious that down the list there is an amendment of my friend, Mr. Anklesaria, which is a more comprehensive one. Yet I move my amendment with the idea that, being a minor thing, it may be accepted.

[Mr. S. C. Mitra.]

Sir, I am conscious that so far as clause 2 was concerned, a similar amendment was moved by me and I have tried carefully to follow the objections raised by the Honourable the Leader of the House. Sir, I have got the greatest regard for his legal acumen and his vast experience, but yet I move my amendment. I shall explain my reason later on. No one would have been more glad than ourselves had he been the Chief Justice of Bengal administering justice, but here he is rather to flout the Opposition. So I must move my amendment.

Sir, the objection of the Honourable the Leader of the House to a similar amendment regarding clause 2 was that we wanted to make a wrong of absolute liability into an intentional wrong. That is quite correct. That is my intention. I do not like that anybody, who might be quoting from one of the newspapers not knowing that he is committing any offence, should be hauled up before a Court of justice. I want to make it an intentional wrong and not an absolute liability. Then, his second point was that it would make nonsense of that clause. He argued it in this way: because "maliciously" in a legal sense implies an intention to do an act which is wrongful and to the detriment of another. I think the same objection cannot be raised here because there is no such word as "dissuade" here. It is certainly that it must be proved that it is to the detriment of the State. Then, his third objection was about the onus of proving the malice,—that it will transfer the onus of proving malice on the prosecution. Sir, I plead guilty. I do want that the onus should be on the Government to show that the passage that was published was seditious as coming under any one of these clauses. His fourth objection was that the word "maliciously" is a misleading word. Here I shall follow his example and quote from the same authorities to show that it is really not so misleading as he thought it to be. Before doing so, however, I should like to refer to his view that the word "maliciously" is seldom used by draftsmen now-a-days, and that it is to be found in old books only. Sir, we remember that there are many clauses in the Indian Penal Code where the word appears, and, even in the amendments of section 153-A, the word "maliciously" is used, but apart from that I remember being a Member of this House that we enacted, as late as 1937, section 295A where we used the words "whoever with the deliberate and malicious intention of outraging the religious feelings of any class of His Majesty's subjects by words either spoken or written", and so on. So the word is not so misleading as the Honourable the Law Member thought it to be. Then, as regards Stroud himself in his Judicial Dictionary, there is a reference to a judgment which is often quoted:

"The terms 'maliciously, wrongfully and injure' are words all of which have accurate meanings well known to the law, but they have also a popular and less precise signification. An intent to injure means, in strictness, more than an intent to harm. It connotes an intent to do a wrongful harm. 'Maliciously' in like manner means and implies an intention to do an act which is wrongful to the detriment of another."

This judgment of Bowen, Lord Justice, was quoted with approval by Lord Watson who was leading the majority in the famous House of Lords case of *Allen vs. Flood* which, I think, is read even in law classes. Then he has quoted Lord Blackburn:

"Where any person wilfully does an act, he does it maliciously"

Then he has quoted a number of authorities. So, the word "maliciously" is certainly not so misleading as the Law Member thinks it to be. Wharton's Law Lexicon, on page 534, says this about Malice:

"Malice in common acceptance means ill-will against a person, but in its legal sense it means a wrongful act done intentionally without just cause or excuse."

So, it is not at all difficult to find the meaning of this word nor is it the fact that it has not been used recently. Of course, the predecessor of the Honourable the Law Member, the late lamented Mr. S. R. Das, used the term in 1927 and he himself might not have thought it good draftsmanship to use this word, but it is certainly not a word that is unknown in legal phraseology. My purpose, as I have said, is that I want to put this that this offence should be done intentionally and wilfully and with the intent to detriment the interests of the State. I would like to make that point clear. The proscription of a book may be declared even by Local Governments. Suppose a man from Bengal unwittingly quotes something. He is not expected to read all the Gazettes of all the Local Governments. Even then, as the Law Member rightly said, he cannot get rid of an absolute liability. So, in these cases, I want that the intention should be clearly proved and that the onus should be on the Government.

Mr. President: Amendment moved:

"That in sub-clause (1) of the Bill, after the word 'Whoever' the words 'with malicious intention' be inserted."

The Honourable Sir Brojendra Mitter: Sir, it gave me great pleasure to hear my Honourable friend, Mr. Mitra's speech on this amendment. He was absolutely frank as to what he wanted. He said he wanted to make this offence an intentional wrong and, secondly, he wanted to throw the onus of proving malicious intent on the Government. Sir, my answer is this. If my friend's objects were achieved, then the whole of the policy behind this clause would be frustrated. Sir, forfeiture, as my Honourable colleague, the Home Member, said a few minutes ago, is an executive act, but it is an executive act which is subject to judicial revision. If Honourable Members would turn to section 99B of the Criminal Procedure Code, they will find that it provides:

"Any person having any interest in any newspaper, book or other document in respect of which an order of forfeiture has been made under section 99-A, may, within two months from the date of such order, apply to the High Court to set aside such order on the ground that the issue of the newspaper or the book or other document in respect of which the order was made did not contain any seditious or other matter of such a nature as is referred to in sub-section (1) of section 99-A."

It means this that an order of forfeiture may be challenged in the High Court. And, if the order of forfeiture has been improperly made, then the High Court can set aside the order. Now, all that is there. In clause 5, we are proceeding from the point when the order of forfeiture is an operative order, that is to say, when the order of forfeiture has not been set aside. It stands. Now, Sir, from that very fact, the inference can be legitimately drawn that the order of forfeiture is a proper order and what has been declared to be forfeited to His Majesty is objectionable matter. If you start from that position, is not, then, a repetition of the objectionable matter a double wrong? First of all, an objectionable matter is forfeited. Then, you go out of your way to repeat that objectionable

[Sir Brojendra Mitter.]

matter. Sir, on ordinary principles that ought to be a matter of absolute liability and not an intentional wrong imposing upon the Government to prove the intention over again when that intention Government would have been bound to prove if the order of forfeiture had been challenged. Indeed, the fact that an order of forfeiture is an operative order means this that the persons affected either did not want to challenge that order or were unsuccessful. Therefore, the order of forfeiture being there, the forfeited publication ought not to be in the hands of any citizen, far less to be further published by a repetition of the objectionable matter. If you introduce the element of malicious intention into this offence, then you are calling upon the Government to prove that which the Government at an early stage could have been compelled to prove but which you did not want the Government to prove. In this connection, I wish to draw the attention of the House to a passage in a standard book on Criminal Law. It is Mayne's Criminal Law. I do not think even my Honourable friend, Mr. Amar Nath Dutt, will challenge the authority of this book. Mayne says this:

"There is, however, a large and growing class of statutory offences, where acts previously innocent are forbidden, or acts previously optional are commanded, simply because the State considers such legislation necessary for its own interests, or for the protection of some particular class of the community. Here the object of the State is merely to compel the adoption of a particular line of conduct, and the penalties that are imposed are intended, not for punishment, but for prevention, as the only means which the State has at its disposal for the enforcement of its laws. Now, in regard to such cases, questions have frequently arisen, whether a person is punishable under the Statute, when he has violated its provisions in ignorance of the fact on which the violation depends."

Further on, he goes on to say:

"It is now, however, settled that the true test is, to look at the object of each Act that is under consideration, to see how far knowledge is of the essence of the offence created..... In arriving at this decision, it has been held material to inquire whether the object of the statute would be frustrated, if proof of such knowledge was necessary."

My submission is that if you introduce the element of intention into this clause, then the whole object of this executive action would be frustrated. That executive order is liable to be revised. If 4 P.M. it is not revised by the High Court and the executive order stands, what reason is there that Government should be compelled to go before the Court and prove that the matter is seditious, or prove that the matter is objectionable in any other way? That will frustrate the very object of prompt executive action which underlies this clause.

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): Sir, I do not wish to say very much about this clause. The Honourable the Law Member said that the question of intention cannot be brought into this, because it is a question of executive action and the question of intention should not be brought in. But may I be permitted to refer to the report of the Select Committee on this point? They say:

"We are impressed by the danger that persons who inadvertently repeat a passage" etc.

Does not that bring in the question of intention, inadvertently as opposed to intentionally? Therefore, both the Home Member and the Law Member have the question of intention before them, and how did

they bring it? An order of forfeiture may be made by any Local Government in India. It may be made by the Bombay Government or the Madras Government, but we in Bengal will have no knowledge and no idea that such and such an order has been made. Therefore, the question arises, that there should be an element of intention in this matter. To remove that danger, the Law Member and the Home Member have been kind enough to insert that *Explanation* and they give their reasons why that *Explanation* has been inserted. I, therefore, think some words should be added showing that the mischief has been done intentionally.

The Honourable Mr. H. G. Haig: Sir, with reference to the point which has just been made by my friend, Mr. Sen, I would call the attention of the House to the fact that the Select Committee said that they were "impressed by the danger of persons who inadvertently repeat a passage not harmful in itself"; that is to say, in the case of a newspaper where there is an objectionable article and there is much other matter which is wholly unobjectionable, a passage might be quoted from a perfectly unobjectionable article and technically, as I said just now, technically that might be an offence unless it were guarded in this way by sub-clause (2). But we never intended, and we never said, that it should be necessary in the case of harmful material that intention should be proved, because the intention can, I think, be presumed. Sir, I oppose the amendment.

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

"That in sub-clause (1) of clause 5 of the Bill, after the word 'Whoever' the words 'with malicious intention' be inserted."

The motion was negatived.

Mr. Lalchand Navalrai: Sir, I find that an amendment like that of mine has been included in the list of which notice has been given by Mr. Anklesaria. And as it is more comprehensive than mine, I will not move my amendment,* and I will support this one.

Mr. S. C. Sen: Sir, I beg to move:

"That in sub-clause (1) of clause 5 of the Bill, after the words 'repeats in public any passage' the following be inserted:

'containing seditious or other matters of the nature referred to in sub-section (1) of section 99-A, of the Code of Criminal Procedure, 1898, or sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931.'

I have also given notice of another amendment which I will move if this one is passed, namely, that sub-clause (2) should be omitted.

Sir, my object in moving this amendment is to make it clear that instead of the Local Government the Court shall have the right to declare whether the passage read comes within the purview of sedition, etc. There is also another reason why I am moving this amendment here. You will find that under clause 5, if it stood alone, the only point which would have been relevant to the inquiry before the Magistrate would have been the publication, and the publication from a forfeited document. It was

*"That in sub-clause (1) of clause 5 of the Bill, after the word 'Whoever' the words 'knowingly' be inserted."

[Mr. S. C. Sen.]

pointed out in the Select Committee that a forfeited document, a magazine for instance, may contain various useful contributions and may also contain seditious matter. And, therefore, with regard to those matters with which no fault can be found, I should not be debarred from referring to them. The Honourable the Home Member and the Honourable the Law Member accepted our view and they put in this sub-clause (2). They say in their report:

"We are impressed by the danger that persons, who inadvertently repeat a passage not harmful in itself from a newspaper which has been declared to be forfeited, may be exposed to the mischief of this clause. We have accordingly introduced by sub-clause (2) a provision which we think will be sufficient safeguard against this danger."

The whole question now is whether that is a sufficient provision against the danger, the reason or the object being the same. The object is to limit this clause to the case of seditious passages. My amendment is also to the same effect, but I want to make it clear that the two points which will be before the Magistrate will be decided by the Magistrate and not be precluded by the certificate to be given by the Local Government. If once it is admitted that only seditious matter should be dealt with under this clause, I do not see why Government should object to the amendment which I have moved,

Now, Sir, taking sub-clause (2), it comes to this that no Court shall take cognisance of an offence punishable under this clause unless the Local Government certifies that the passage published is seditious, etc. What is the evidence before the Local Government that the passage has been published by the person against whom they are proceeding? As regards the question whether it is seditious or not, we may leave it to the Local Government. They may take legal opinion and declare that the passage which the police or the other reporter produces before them is seditious or otherwise. But where is the evidence before them to show that the passage which they have declared to be seditious is the passage which I have read or quoted. I cannot make them masters of the factum that that particular passage has been published. I want that to be clear and that that point should be decided by the Magistrate. Now, the certificate of the Local Government would run like this:

"We are of opinion that the passage read by such and such person on such and such date is seditious."

That would be the position. Probably they will not go into the passages or quote the passages themselves. According to the nature of the certificate which we are accustomed to get from Local Governments in this matter, I can say that would be the position. Then the matter will come up before the Court. I do not know whether, after that certificate, I shall be entitled to raise the point that I have not published those passages. Assuming that the Court comes to my conclusion and says: "Yes, you are entitled to raise that point", and the Court comes to the conclusion that those passages which have been declared by the Local Government to be seditious were not read, what would be the position of this certificate? The Court has taken cognisance of the matter, because there is a certificate to the effect that the matter comes within the mischief of the section, but what would be the result? The Court having taken cognisance, will say: "We have taken cognisance and, therefore, we are entitled to proceed with the case". And what would be the matter before the Court? Not

whether it is seditious, but the only matter will be whether the passage has been read from that particular book, and not whether the passage is seditious or not. To get rid of all these doubts and difficulties, I have moved this amendment, the object being the same, namely, that I shall be punished only for uttering seditious matter at a public place. If that is not so, then what is the object of this clause? With these words, I move my amendment.

Mr. T. N. Ramakrishna Reddi: Sir, the Government themselves have recognised the all-embracing nature of sub-clause (1) of clause 5. That is why they have stated in their minute that they are impressed with the danger that persons, inadvertently repeating a passage, not harmful by itself, from a newspaper which has been proscribed, may be exposed to the mischief of this clause. That is why they have introduced sub-clause (2) to remove that misapprehension. Now, my friend, Mr. Sen, has given notice of an amendment to the same effect. The House has to see which amendment is reasonable and proper. If sub-clause (1) stood by itself without the amendment, then the meaning would be that if a person has read any passage from a newspaper, book or document which has been proscribed, though that passage by itself might be very innocent and not seditious, even then he comes under the mischief of this clause. That means that the whole book might be proscribed on account of a particular small passage in one corner of it, although the rest of the matter contained in the book might be quite innocent and might not come under this clause at all; but the Government finding that a particular passage in that book is objectionable have proscribed the whole book. An innocent man like myself might read a passage which by itself is not seditious, but my only offence is that I have read from a book which has been proscribed. So the Government have recognised the mischief which this clause is intended to deal with, and that is why they have introduced sub-clause (2). In order to remove that mischief, my friend, Mr. Sen, has proposed an amendment which can be understood by anybody, because it is in plain English language, and I do not see any reason why the Government should not accept it. My friend says:

"whoever publishes, circulates or repeats any passage containing seditious or other matter coming under this section from a newspaper", etc.

This is quite plain English, and so there is no necessity, if you accept this amendment, for putting sub-clause (2) on the Statute-book. This is exactly what the Government want to remove by enacting sub-clause (2) and my friend's amendment meets the object they have in view. It might be pointed out, Sir, that by enacting sub-clause (2), there is this complication. Here the Government say:

"No Court shall take cognisance of an offence unless the Local Government has certified."

In this case, the prosecution comes with redoubled force of a Government behind its back. And what do the Government do? The Government say that the passage is seditious, it has been read. It comes with a double certification, and then our Magistrates, as they are, will certainly accept the Government version, and with very little evidence they will dispose of the whole matter and convict the accused. Whereas, if my friend, Mr. Sen's amendment is accepted, then the prosecution will have to prove two things, that the particular passage read from the book is by itself

[Mr. T. N. Ramakrishna Reddi.]

seditions, and that that particular passage has been read. These are the two things they will have to prove now without this sub-clause (2). Now, with sub-clause (2), the Government have themselves expressed the opinion, and the Court will say that the particular passage has been read and the onus is thrown upon the defence to prove that he has not read that particular passage. That is the difference between the amendment of my friend, Mr. Sen, and the amendment proposed by the Government. Therefore, I have no hesitation in accepting the amendment proposed by Mr. Sen.

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): Sir, I support the amendment of my friend, Mr. Sen, more especially as I believe that in moving the amendment he is trying to undo the mischief which he himself did in the Select Committee. My friend was himself the author of what I should now call as an absurd sub-clause, absurd not only from the popular point of view, but absurd also from the point of view of Government themselves. I take it that the Government want to punish not the seditious nature of the *publication*, because for that we have got section 124 of the Indian Penal Code punishable with transportation for life, but I take it that the object of the Government is to punish the *repetition* of the objectionable matter. As the sub-clause is worded, it appears to me far from being a protection to the innocent, it is a trap to the unwary, because a passage which is repeated quite inadvertently and quite innocently by a person is sought to be made objectionable, when it is supported by the opinion of the Local Government under this sub-clause (2). A person repeats a passage from a proscribed document. Up to the point of repetition, he has not committed any offence according to sub-clause (2). But directly the sub-inspector gets hold of him and reports the matter to the authorities and gets the opinion of the Local Government saying that the passage repeated is seditious, the person who has repeated it would be prosecuted. Now, I say, at the moment the man was repeating the passage, he was perfectly innocent and could not be prosecuted, because, *ex hypothesi*, the passage was unobjectionable, but he could be prosecuted only after the Local Government had decided to call that passage objectionable. Then, again, there is this difficulty. Supposing a document has been proscribed in Madras and it is repeated in the Punjab, it is quite possible that the passage which may not have appeared objectionable to the Madras Government may appear to be objectionable to the Punjab Government. In this state of affairs, we have got a conflict of two authorities. I do not say that it will occur ordinarily, but I submit there is that legal objection. This is a valid objection for, according to jurists, all law should avoid conflict. These are the few remarks which I wanted to address in support of the amendment.

Mr. Lalchand Navalrai: As the clause stands, it appears to me that there are two issues involved in it. One is, whether the book or other document, which has been declared to be forfeited, has been published, circulated or repeated, and the second is, whether what has been circulated or repeated or published, is seditious. These are the two issues which ought to be in a judicial trial before a Magistrate. What is attempted here by sub-clause (2) is that one issue should be decided by the Magistrate

and the other is to be decided by the executive. Under this Explanation, when the case comes before the Court, it will have been already decided by the Government that the passage in question is seditious, and the Magistrate is simply to take judicial notice of that fact, and to satisfy himself merely whether that passage has been published or repeated by the man or not. These two issues as a rule have to be decided on evidence judicially taken before a Court. Then, why should the main issue be decided by the executive and the rest be left to the Magistrate? It is claimed that the seditious character of the passage should be decided by the executive. I cannot understand the logic of that argument. When the Government are the complainant,—the Crown being in charge of such cases,—the complainant himself will decide the main issue regarding its seditious character, and then come before the Court! Does that appeal to reason, does that appeal to common sense, does that appeal to any judicial standard as to how cases should be decided? Section 124A of the Indian Penal Code is the main section for sedition. "Whoever causes hatred towards Government and publishes by representation or by words anything which causes hatred towards Government, etc.", is seditious. Under section 124A, that issue, whether a particular thing uttered or represented is seditious or not, is left to the Court, and, therefore I do not see, why there should be any difference at all. It will be only right that both these issues should be decided by the Court. On these grounds, I support this amendment.

The Honourable Sir Brojendra Mitter: The reason underlying the amendment is that the adjudication should be by a judicial officer. In this debate the distinction between executive action and judicial adjudication, and the circumstances in which executive action or judicial adjudication is more appropriate, have been ignored. There are circumstances in which executive action is the proper machinery; there are other circumstances in which judicial adjudication is the proper machinery. In this connection I shall read a passage from a judgment of a very great Judge, Sir Lawrence Jenkins, in which he has dealt with this aspect. He says this:

"I have said that the ability to pronounce on the wisdom or unwisdom of executive action has been withheld from the Courts. There was good reason for this. Courts of law can only move on defined lines, and acting on information brought before them under limited conditions. It is not so with the executive authority. It would be paralysed if it had to observe the restrictions placed on the Courts. Its action can be prompted by information derived from sources not open to the Courts, and based on considerations forbidden to them. It can be moved by impressions and personal experiences to which no expression can be given in a Court of law, but which may be a very potent incentive to executive action. The Government may be in possession of information which it would be impossible to disclose in a Court of law, and yet obviously requiring immediate action. Therefore, jurisdiction to pronounce on the wisdom or unwisdom of executive action has been withheld and rightly withheld."

Now, Sir, here is a clause which deals with executive action and in which pronouncing on the wisdom or unwisdom of such executive action is rightly withheld from the Courts for the reasons which Sir Lawrence Jenkins has given in his own felicitous language. It is quite clear that in clause 5 we intend that the executive order of forfeiture, which is always subject to judicial revision, should be enforced. It will be an executive action. My Honourable friend, Mr. Sen, in his own subtle way has discovered doubts and difficulties which are not there. He asks, what is the offensive

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passage, how is the accused to know for the repetition of what passage he is being prosecuted? There is no ambiguity and no difficulty. Under sub-clause (1) of clause 5, prosecution may be launched for repetition of any passage from a newspaper, book, etc. Then, in sub-clause (2), it is said that no Court shall take cognisance of an offence unless the Local Government has certified that the passage published is seditious. Therefore, the passage published refers back to clause 1, that is to say, the passage for which the accused is being prosecuted. Where is the ambiguity? The Local Government has to certify the passage.

Mr. S. C. Sen: May I interrupt the Law Member. Under clause 1, the Court will not have to enter into the question as to what passage has been read so long as it is proved that the passage is from a proscribed book.

The Honourable Sir Brojendra Mitter: That is precisely the point I was meeting. What I say is this. A prosecution cannot be launched without a certificate from the Government. Very well. In that certificate the whole passage is set out—the objectionable passage. That is the first step in the prosecution. Now, the certificate removes the bar to the prosecution. Then, armed with that certificate, the prosecuting counsel comes before the Court and he says I am prosecuting this person for repeating this passage which is covered by my certificate. No other passage can form the basis of a prosecution. It is only that passage which is covered by the certificate which can be the basis of a prosecution. That being so, where is the difficulty in knowing for what passage the person is being prosecuted? Although clause 2 comes after clause 1, it refers back to clause 1. That is, the certificate refers to the offending passage and then the prosecution is launched on the basis of that offending passage. The offending passage is known to the accused. Sir, there is no doubt or difficulty.

Mr. S. C. Sen: What I say is this. The local Government has no knowledge as to what passage may have been read. They can only get that information from the person who was present at the meeting. Upon the basis of that information they certify. My point was that there is nothing given to me to show that the passage which the Local Government has certified is not the passage which I have read.

The Honourable Sir Brojendra Mitter: I hope I am not doing an injustice to my friend, Mr. Sen. If I understand him correctly, he means this that the certificate may mention a particular passage, but the prosecution may be based on some other passage. That may be one meaning. Another meaning may be this, that the Local Government upon information certifies that the particular passage which is reported to it to have been repeated is objectionable. Now, upon that certificate a person is prosecuted. The defence is: "I did not repeat that passage. I repeated some other passage." If that be the defence and if that defence be established, the prosecution must fail. Sir, it is the duty of the prosecution to prove that the offending passage was repeated. Otherwise the certificate has no value. The onus is upon the prosecution. The prosecution may not be able to prove that the passage in the certificate

was the passage repeated. If that happens, then the prosecution fails. The defence may be able to prove that the passage alleged by the prosecution was not repeated, but some other passage was repeated. In that event the prosecution is bound to fail, because there is no certificate covering the passage which was the basis of the prosecution. Sir, I do not see where any doubt or difficulty arises, where there is any risk. The whole onus of proving the offending passage being on the prosecution, the accused could sit there, with folded hands and see that the prosecution does prove its case.

Then, Sir, the next point with which I need deal is Mr. Anklesaria's point. As I understand him, he said that under clause 1, when a person repeats an offending passage, no offence is committed. He said, it is only under clause 2 when there is a certificate that the offence is complete. I think there is a confusion of thought. The offence is committed the moment the offending passage is repeated, but there may not be a prosecution for that offence till the bar is removed by a certificate. The certificate is nothing more or less than lifting the bar to a prosecution.

Mr. N. N. Anklesaria: May I know what happens if the Government, who have to declare the passage as seditious or objectionable, do not declare the passage. The man reads the passage from a proscribed book. You say he commits an offence immediately. My point was, he becomes criminal directly the Local Government declares the passage to be objectionable.

The Honourable Sir Brojendra Mitter: The confusion is this, if the passage is harmless, then there is no question. No offence has been committed.

Mr. N. N. Anklesaria: Suppose the Local Government declares it objectionable although it is harmless?

The Honourable Sir Brojendra Mitter: I am on the point whether the passage is intrinsically harmful or not harmful. If it is not harmful, no offence is committed. If it is harmful, it may be given in a certificate or it may not be given in a certificate, but that certificate has got no bearing upon the commission of the offence. The offence is committed the moment the objectionable passage is repeated. The commission of the offence is one thing and prosecution for the offence is different thing. The offence may have been committed. It may be a venial offence and Government may not think it worth while to prosecute a person for repeating an objectionable passage, but if the Government want to prosecute, then a certificate must be given. Therefore, the grant of the certificate has no bearing upon the commission of the offence. The offence is completed by the repetition, but the prosecution cannot be started without the certificate. I cannot see the difficulty. Under the Criminal Procedure Code, as every lawyer friend of mine in this House knows, there are many offences for which previous sanction must be obtained before a prosecution can be started. The absence of the sanction does not mean non-commission of the offence or non-completion of the offence. Sanction merely removes a bar to the prosecution. Therefore, my submission is this, that ambiguity there is none, because the certificate contemplates setting out the offending passage on the basis of which the publication was proscribed. Now, that certificate when given enables a prosecution to be started, and, in the prosecution, the Government will have to prove that the accused did repeat that offending passage which is

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covered by the certificate. When that onus is discharged, the Magistrate has no other duty with regard to the offending passage, whether it is seditious or not seditious. Sir, that is the position which Sir Lawrence Jenkins, in the judgment I cited, pointed out. The right of adjudication has been withheld from the Courts. That right has been given to the executive authorities. The executive action is based upon executive judgment, which, I repeat, is subject to judicial scrutiny under section 99B: but once the executive action is taken, then the prosecution under clause 5 will be more or less, the implementing of the executive action, or rather enforcing or making effective the order of forfeiture. It is nothing more nor less than making an order of forfeiture effective, and no judicial adjudication comes in here at all.

Rao Bahadur B. L. Patil: Sir, after hearing the lengthy explanation and argument of the Honourable the Law Member, my doubts still remain. His argument was this,—that the Local Government will certify that a particular passage is seditious. Then the bar to prosecution goes, and the prosecution may commence. But, in my humble opinion, the words as they are in sub-clause (2) will make the Court think that the Government can certify, not only that the passage is seditious, but that it is repeated. I am afraid the Court would be likely to construe the sub-clause as meaning that it is in the power of the Government not only to certify that the words are seditious, but that the words are repeated.

The Honourable Sir Brojendra Mitter: No, Sir. That will have to be proved by the prosecution under this clause.

Rao Bahadur B. L. Patil: In my humble opinion, however, Sir, unless there are such words "alleged to be repeated" or "alleged to have been repeated", the Court is likely to construe that it is in the power of the Local Government not only to certify that the passage is seditious, but that the passage is repeated, and then the Court will think that its duty will be only to pass a judgment in the case.

The Honourable Mr. H. G. Haig: I need not add anything, Sir, to the very full exposition of the law given by my Honourable colleague, the Law Member. In regard to the point raised just now by my Honourable friend, Rao Bahadur Patil, the Honourable the Law Member has given it as his definite opinion that under the clause, as drafted, it will be obligatory on the prosecution to prove that the particular passage was published, circulated or repeated, and I am content to accept his opinion.

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

"That in sub-clause (1) of clause 5 of the Bill, after the words 'repeats in public any passage' the following be inserted:

'containing seditious or other matters of the nature referred to in sub-section (1) of section 99-A, of the Code of Criminal Procedure, 1958, or sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1951.'"

The motion was negatived.

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

"That in sub-clause (1) of clause 5 of the Bill, the word 'newspaper' be omitted."

Sir, so far as the legal explanation is concerned, I think I have tried to follow the Honourable the Law Member's interpretation, but my difficulty about the procedure is this. The clause says:

"Whoever publishes, circulates or repeats in public any passage from a newspaper, book or other document copies whereof have been declared to be forfeited."

Now, it is not binding on the Government, in declaring copies to be forfeited, to point out the particular passage in the newspaper to which they take exception. As I have tried to explain, in supporting the motion for deletion, in regard to a newspaper, there is a great difficulty, because a particular copy of a newspaper deals with varied subjects having no connection whatsoever with each other. It not being binding on the Government to say what particular article or what particular paragraph they are taking exception to, how can the ordinary man in the street read into the mind of the Government and know that Government consider a particular passage or a particular item in a particular issue of a newspaper to be objectionable? I can well understand if there is anything binding on the Government to say, whenever they forfeit any copy of a newspaper, to point out that this, for instance, is the particular passage for which the whole copy is forfeited. Then the further difficulty is, that a Local Government in a particular place may declare a particular copy forfeited. Now, another man from another province, not even knowing of it, may quote a particular passage that may happen to appear in that newspaper. The liability being absolute, the accused person cannot plead that he did not know. So I urge that at least from this clause the word "newspaper" might be omitted. That is the least that Government should do, or Government should declare here and now that in forfeiting any copies of a newspaper they will definitely say to what particular passages they are taking exception. Sir, unless some such provision is embodied, this clause will lead to an enormous harm to the public and to newspapers. Sir, I move my amendment.

The Honourable Mr. H. G. Haig: Sir, I think my Honourable friend, Mr. Mitra, would be the first to recognize that if we accepted this amendment, it would very seriously weaken the clause or, as he himself would express it, would mitigate the rigors of the Bill. If it were permissible for anybody who wanted to repeat a proscribed passage from a book merely to get that passage reproduced in a newspaper and then to be free of any prosecution, the whole object of this clause would be defeated. Well, Sir, my Honourable friend makes the point that the newspaper-reading public may be unaware which particular article the Government have in mind when an issue of a newspaper is proscribed. My own belief is that, normally, the Government would indicate the article to which objection had been taken. I can illustrate by a very recent case which has been the subject of a good deal of comment during this very debate, the case in which the Bombay Government—though I admit it was rather a different case—took action against the *Free Press Journal*. Certainly, in that case, when taking action against the newspaper under the Ordinance, they did specify the particular article to which objection was taken. In any case, I think that when an ordinary member of the public is aware, as we must assume that he is aware, that a

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particular issue of a newspaper has been proscribed, he will be more than usually careful in the quotations that he makes from that particular issue of the newspaper. And, if he is reasonably careful, he may be quite sure that he will not inadvertently repeat a passage which, in fact, is seditious.

Sir, I oppose the amendment.

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

"That in sub-clause (1) of clause 5 of the Bill, the word 'newspaper' be omitted."

The motion was negatived.

RESOLUTION RE TRADE AGREEMENT SIGNED AT OTTAWA.

PRESENTATION OF THE REPORT OF THE SPECIAL COMMITTEE.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Before adjourning the House, I should like to call upon the Commerce Member to place the report of the Ottawa Committee before the House.

The Honourable Sir Joseph Bhoré (Member for Commerce and Railways): Sir, I present the report* of the Committee appointed by the House to examine and report on the Ottawa Agreement. This Report also includes a separate Report by three members of the Committee and also individual notes by some of us.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 29th November, 1932.

*Published in Part I of the Gazette of India, dated the 3rd December, 1932 (*vide* pages 1304—25).